

STATE OF MAINE  
129<sup>TH</sup> LEGISLATURE  
FIRST SPECIAL AND SECOND REGULAR SESSIONS



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

**JOINT STANDING COMMITTEE ON JUDICIARY**

November 2020

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**STATE OF MAINE**  
129<sup>TH</sup> LEGISLATURE  
FIRST SPECIAL AND SECOND REGULAR SESSIONS



**LEGISLATIVE DIGEST OF BILL SUMMARIES AND  
ENACTED LAWS**

**SPECIAL NOTICE REGARDING  
COVID-19 PANDEMIC**

As a result of the COVID-19 Pandemic, the Second Regular Session of the 129<sup>th</sup> Legislature adjourned on March 17, 2020, nearly a month prior to the statutory adjournment date of April 15, 2020. Before adjourning, the Legislature passed Joint Order, S.P. 788:

“ORDERED, the House concurring, that all matters not finally disposed of upon the adjournment sine die of the Second Regular Session of the 129<sup>th</sup> Legislature be carried over, in the same posture, to any special session of the 129<sup>th</sup> Legislature.”

The “matters not finally disposed of” were in many different postures upon adjournment. In this digest, at the end of each summary of a bill that was carried over by S.P. 788, there is an indication of the posture of the bill at the time of adjournment.

No special session has been held as of the publication of the Digest and none is anticipated, so all bills carried over are expected to die upon the conclusion of the 129<sup>th</sup> Legislature. However, after the Second Regular Session adjourned and in preparation for the possibility of a special session, a number of committees met and considered a number of bills in their possession. One hundred and sixty bills were acted upon in some way by committees (voted or reported out), among them several new bills that were printed and referred to committee, worked and reported out. **Appendix A** provides a list of the bills that were voted or reported out of committees after the Second Regular Session adjourned.



*Joint Standing Committee on Judiciary*

**LD 82      An Act To Determine the Necessity for a Public Guardian or  
Conservator Bond**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY D CARPENTER M		

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

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

This bill proposes to implement recommendations relating to the bond requirements for public guardians and conservators under the Maine Revised Statutes, Title 18-C, section 5-710. The recommendations must be based on a review of the bond requirements to determine whether the requirements should be changed.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 89      An Act To Impose Requirements on the Rental of Residential Property  
That Has Been Used in the Manufacture of Methamphetamine**

**CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill requires that landlords and other persons entering into a lease or tenancy at will agreement for residential property ensure that property used in the manufacture of methamphetamine be decontaminated and tested in accordance with the standards established by the United States Environmental Protection Agency's March 2013 revised edition of the Voluntary Guidelines for Methamphetamine Laboratory Cleanup or other standards established in rule by the Department of Economic and Community Development. The bill also requires that landlords and other persons entering into a lease or tenancy at will agreement disclose to the potential tenant or lessee that a property has been used in the manufacture of methamphetamine. The bill makes violation of these provisions a civil violation, punishable by a fine of up to \$500, and also states that failure to decontaminate or disclose constitutes a breach of the implied warranty of fitness for human habitation. The bill gives the Department of Economic and Community Development authority to adopt rules to implement these provisions.

This bill, which had been reported out of committee but not yet taken up by the House or THE Senate, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

*Joint Standing Committee on Judiciary*

**LD 182      An Act To Amend the Maine Bail Code Regarding the Financial Capacity of a Defendant To Post Bond**

**CARRIED OVER**

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

This bill was carried over in the Criminal Justice and Public Safety Committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322. The bill was re-referred to the Judiciary Committee during the Second Regular Session.

This bill amends the Maine Bail Code to provide that a defendant who is not dangerous, is not a flight risk in the absence of bond and is otherwise eligible for bail may not be detained solely due to financial inability to post a money or property bond and may file a motion with the court requesting relief from the requirement to post a money or property bond. This bill requires the court to determine the financial capacity of the defendant and rule on the motion in an expedited manner.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 194      An Act To Allow the Reduction of a MaineCare Lien**

**CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

Under current law, when MaineCare benefits are provided to an individual for the costs of injury, disability or other occurrence for which a third party is held liable, the Commissioner of Health and Human Services is entitled to recover the costs of MaineCare benefits, and the statutory lien may not be reduced to reflect an assessment of a pro rata share of the recipient's attorney's fees or litigation costs. This bill amends that provision of law to allow the statutory lien to be reduced.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 279      An Act To Raise Juror Pay to \$50 per Day**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P PERRY A	OTP-AM OTP-AM	S-24

This bill was carried over from the First Regular Session of the 129th Legislature on the Special Appropriations Table by joint order, H.P. 1322.

*Joint Standing Committee on Judiciary*

This bill increases a juror's daily compensation rate from \$15 to \$50.

**Committee Amendment "A" (S-24)**

This amendment is the majority report. It adds an appropriation and allocations section and incorporates a fiscal note.

**Committee Amendment "B" (S-25)**

This amendment is the minority report. It changes the increased juror compensation amount in the bill to \$25 per day. The amendment also adds an appropriations and allocations section and incorporates a fiscal note.

This amendment was not adopted.

This bill was again carried over, still on the Special Appropriations Table, to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 302      An Act To Amend the Laws Governing Post-conviction Review in Order      CARRIED OVER  
To Facilitate the Fair Hearing of All Evidence in Each Case Involving a  
Claim of Innocence**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

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

This bill, which had not yet been voted by the committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 433      RESOLUTION, Proposing an Amendment to the Constitution of Maine      CARRIED OVER  
To Explicitly Prohibit Discrimination Based on the Sex of an Individual**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RECKITT L MILLETTR	OTP-AM ONTP	H-230

This resolution was carried over in the House from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This resolution proposes to amend the Constitution of Maine to prohibit the denial or abridgment by the State or any political subdivision of the State of equal rights based on the sex of an individual.

## *Joint Standing Committee on Judiciary*

### **Committee Amendment "A" (H-230)**

This amendment is the majority report of the committee. This amendment incorporates a fiscal note.

### **House Amendment "A" (H-705)**

This amendment proposes to amend the Constitution of Maine to prohibit the denial of equal protection under the law based on the sex of an individual. It makes clear that the prohibition does not secure or protect a right to abortion or funding of abortion by the State.

This amendment was not adopted.

This resolution was again carried over, still in the House, to any special session of the 129th Legislature by joint order, S.P. 788.

<b>LD 531</b>	<b>An Act To Provide Counsel for a Person Who Is the Subject of an Adult Guardianship, Conservatorship or Other Protective Arrangement Proceeding</b>	<b>CARRIED OVER</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARDONE B CARPENTER M		

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill requires a probate court to appoint an attorney for a person who is not already represented by an attorney when the person is the subject of a petition for adult guardianship, conservatorship or other protective arrangement.

This bill, which had not yet been voted by the committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

<b>LD 545</b>	<b>An Act To Ban Child Marriage</b>	<b>PUBLIC 535</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MIRAMANT D	OTP ONTP	

This bill was passed to be enacted by the Legislature and then held by the Governor at the end of the First Regular Session of the 129th Legislature. It became law without signature at the beginning of the Second Regular Session.

Under current law, a marriage license may be issued to parties who are under 16 years of age with the written consent of their parents, guardians or legal custodians and the consent of the probate judge in the county where each minor resides. This bill amends the law to prohibit the issuance of a marriage license to a person under 16 years of age.

### **Enacted Law Summary**

Public Law 2019, chapter 535 amends the law to prohibit the issuance of a marriage license to a person under 16 years of age.

*Joint Standing Committee on Judiciary*

**LD 573      An Act To Extend Time Limits for Placing Land in Trust Status under  
the Maine Indian Claims Settlement**

**CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill extends all time limits for both the Passamaquoddy Tribe and the Penobscot Nation to add to their respective trust lands under the Act to Implement the Maine Indian Claims Settlement to January 31, 2030.

Because this bill amends the Act to Implement the Maine Indian Claims Settlement, this bill does not take effect unless the Joint Tribal Council of the Passamaquoddy Tribe and the Tribal Chief and Council of the Penobscot Nation agree to these changes and certify their agreement to the Secretary of State within 60 days of the adjournment of the First Regular Session of the 129th Legislature.

This bill, which had been referred to committee but not yet heard, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 639      An Act To Protect Student Privacy**

**CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill provides that video and audio recordings made by security or surveillance cameras on school grounds or in school vehicles are not public records for purposes of the Freedom of Access Act.

This bill, which had been reported out of committee but not yet taken up by the House or the Senate, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 657      An Act To Reorganize the Probate Courts**

**CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill is a concept draft pursuant to Joint Rule 208. This bill directs that the Probate Courts be reorganized.

*Joint Standing Committee on Judiciary*

This bill, which had not yet been voted by the committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 680      An Act To Clarify the Intent of the Federal Maine Indian Claims Settlement Act of 1980 To Ensure the Federal Principle of Inherent Tribal Sovereignty      CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EVANGELOS J CHIPMAN B		

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

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

This bill proposes to clarify the intent of the federal Maine Indian Claims Settlement Act of 1980 to ensure the federal principle of inherent tribal sovereignty.

This bill, which had been referred to committee but not yet heard, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 698      An Act To Authorize Maine Courts To Award Attorney's Fees and Costs to Citizens Who Prevail in Civil Litigation against the Executive Branch      CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARSON B	OTP-AM ONTP	S-312

This bill was carried over from the First Regular Session of the 129th Legislature on the Special Appropriations Table by joint order, H.P. 1322.

This bill clarifies that when one or more citizens sue the Governor or any executive branch agency to enforce federal or state law and the citizen or citizens prevail or substantially prevail, the citizen or citizens may petition the court for the State to pay all costs. If the citizen or citizens demonstrate that the agency or Governor knowingly violated the law, the court is required to also award reasonable attorney's fees.

**Committee Amendment "A" (S-312)**

The bill requires the court to award reasonable attorney's fees to a citizen or citizens that prevail in litigation against the Governor or any agency of the executive branch if the citizen or citizens demonstrate that the defendant knowingly violated the law. This amendment, which is the majority report of the committee, gives the court in that situation the discretion to award reasonable attorney's fees to be paid to the prevailing citizen or citizens. The amendment also adds an appropriations and allocations section.

This bill was again carried over, still on the Special Appropriations Table, to any special session of the 129th Legislature by joint order, S.P. 788.

*Joint Standing Committee on Judiciary*

**LD 759      An Act To Increase Efficiency in Enforcement of the Maine Human Rights Act**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R CARPENTER M	OTP-AM ONTP	H-573

This bill was carried over from the First Regular Session of the 129th Legislature on the Special Appropriations Table by joint order, H.P. 1322.

This bill provides funding for two Paralegal positions and one Consumer Outreach position within the Maine Human Rights Commission and requires that the commission purchase a computer system. It also includes a \$10,000 appropriation for the initial step in evaluating the commission's computer system needs.

**Committee Amendment "A" (H-573)**

This amendment, which is the majority report of the committee, incorporates a fiscal note.

This bill was again carried over, still on the Special Appropriations Table, to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 766      An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013**

**PUBLIC 621**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R CARPENTER M	OTP-AM ONTP OTP-AM	H-763

This bill was passed to be enacted by the Legislature and then held by the Governor at the end of the First Regular Session of the 129th Legislature. During the Second Regular Session, this bill was recalled from the Governor's desk and re-committed to committee.

This bill amends the Act To Implement the Maine Indian Claims Settlement by:

1. Transferring jurisdiction over violations of a tribal ordinance from the State to the Passamaquoddy Tribe and the Penobscot Nation over a person who is not a member of either tribe or nation in accord with and to the extent authorized by federal law;
2. Increasing the level of certain criminal offenses from a maximum period of imprisonment of one year and a maximum amount of \$5,000 to a maximum period of imprisonment of three years and a maximum amount of \$15,000 over which the Penobscot Nation has the right to exercise exclusive jurisdiction as authorized by the federal Tribal Law and Order Act of 2010; and
3. Clarifying that the Penobscot Nation has concurrent jurisdiction with the State over criminal offenses as authorized by the federal Violence Against Women Reauthorization Act of 2013.

## *Joint Standing Committee on Judiciary*

### **Committee Amendment "A" (H-648)**

This amendment was the majority report of the committee in the First Regular Session. It provides authority for the Passamaquoddy Tribe and the Penobscot Nation to extend the jurisdiction of their respective tribal courts over certain criminal offenses committed by an individual, regardless of whether the individual is a member of a federally recognized Indian tribe. The criminal offenses are domestic violence offenses in the Maine Criminal Code and criminal violation of a protection from abuse order. The criminal offenses are Class D crimes, and the tribe's and nation's jurisdictions are concurrent with the State's jurisdiction for the crimes.

The Joint Standing Committee on Judiciary has authority to report out legislation to the Second Regular Session of the 129th Legislature concerning the extension of tribal court jurisdiction to felony domestic violence offenses consistent with the federal Violence Against Women Reauthorization Act of 2013 and the Tribal Law and Order Act of 2010.

The tribal courts are required to participate in uniform crime reporting by reporting certain information to the Department of Public Safety, State Bureau of Identification, and the bureau will share its annual reports with tribal law enforcement agencies.

The changes to the Act To Implement the Maine Indian Claims Settlement included in the bill and this amendment do not take effect unless the tribes affected approve of the changes and certify their approval.

This amendment was adopted in the First Regular Session but was removed from the bill when the bill was re-committed to the committee in the Second Regular Session.

### **Committee Amendment "B" (H-649)**

This amendment was the minority report of the committee in the First Regular Session. It differs from the majority report by repealing the expanded tribal court jurisdiction January 1, 2026.

This amendment was not adopted in either session.

### **House Amendment "A" To Committee Amendment "A" (H-655)**

This amendment clarifies the application of the expanded jurisdiction.

This amendment was adopted in the First Regular Session but was removed from the bill when the bill was re-committed to committee in the Second Regular Session.

### **Committee Amendment "C" (H-763)**

This amendment is the majority report of the committee in the Second Regular Session. It replaces the bill but carries out the bill's intent of extending tribal court jurisdiction, originally authorized by the federal Violence Against Women Reauthorization Act of 2013, to any person who commits certain Class D domestic violence offenses against a member of a federally recognized tribe, nation, band or other group on the lands of the Passamaquoddy Tribe or the Penobscot Nation. This concurrent jurisdiction includes offenses committed by a member of a federally recognized Indian tribe, nation, band or other group on tribal lands against a person who is not a member of any federally recognized Indian tribe, nation, band or other group.

Parts A and C apply to the Penobscot Nation. Parts B and D apply to the Passamaquoddy Tribe.

This amendment provides authority for the Passamaquoddy Tribe and the Penobscot Nation to extend the jurisdiction of their respective tribal courts over certain criminal offenses committed by a person, regardless of whether the person is a member of a federally recognized Indian tribe. The criminal offenses are domestic violence offenses in the Maine Criminal Code and criminal violation of a protection from abuse order, but do

## *Joint Standing Committee on Judiciary*

not include offenses between nontribal members. The criminal offenses are Class D crimes, and the tribe's and nation's jurisdictions are concurrent with the State's jurisdiction for the crimes. The amendment references the tribal courts' guarantees of all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction to ensure that this enactment, if ratified by the Passamaquoddy Tribe, the Penobscot Nation, or both, is not later determined or deemed to be unconstitutional based on subsequent judicial decisions. This extended jurisdiction applies to the domestic violence crimes committed on the respective reservations and lands taken into trust by the Secretary of the Interior for the benefit of the Passamaquoddy Tribe or the Penobscot Nation, now or in the future. This extended jurisdiction covers lands held in trust on or before the effective date of this Act, as well as lands taken into trust after the effective date of this Act.

This amendment also extends the exclusive jurisdiction of the Passamaquoddy Tribal Court to criminal offenses committed on the Passamaquoddy Indian Reservation between members of any federally recognized Indian tribe, nation, band or other group.

The tribal courts, law enforcement agencies and law enforcement officers are required to participate in uniform crime reporting by reporting certain information to the Department of Public Safety, State Bureau of Identification, and the bureau is required to share its annual reports with tribal law enforcement agencies.

Other changes include revisions to the definition of "another jurisdiction" in the Maine Criminal Code to include criminal convictions by courts of federally recognized Indian tribes. This change is consistent with federal law and the recognition of orders of protection from abuse from the courts of federally recognized Indian tribes by the Maine Revised Statutes, Title 19-A, section 4011.

The changes to the Act To Implement the Maine Indian Claims Settlement included in this amendment do not take effect unless the tribes affected approve of the changes and certify their approval.

### **Committee Amendment "D" (H-764)**

This amendment is the minority report of the committee in the Second Regular Session. It differs from Committee Amendment "C" in that it includes a sunset on the extended jurisdiction of July 1, 2026.

This amendment was not adopted.

### **Enacted Law Summary**

Public Law 2019, chapter 621 provides authority for the Passamaquoddy Tribe and the Penobscot Nation to extend the jurisdiction of their respective tribal courts over certain criminal offenses committed by a person, regardless of whether the person is a member of a federally recognized Indian tribe. The criminal offenses are domestic violence offenses in the Maine Criminal Code and criminal violation of a protection from abuse order, but do not include offenses between nontribal members. The criminal offenses are Class D crimes, and the tribe's and nation's jurisdictions are concurrent with the State's jurisdiction for the crimes. Chapter 621 references the tribal courts' guarantees of all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction to ensure that this enactment, if ratified by the Passamaquoddy Tribe, the Penobscot Nation or both, is not later determined or deemed to be unconstitutional based on subsequent judicial decisions. This extended jurisdiction applies to the domestic violence crimes committed on the respective reservations and lands taken into trust by the Secretary of the Interior for the benefit of the Passamaquoddy Tribe or the Penobscot Nation, now or in the future. This extended jurisdiction covers lands held in trust on or before the effective date of this Act, as well as lands taken into trust after the effective date of this Act.

Chapter 621 also extends the exclusive jurisdiction of the Passamaquoddy Tribal Court to criminal offenses committed on the Passamaquoddy Indian Reservation between members of any federally recognized Indian tribe,

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nation, band or other group.

The tribal courts, law enforcement agencies and law enforcement officers are required to participate in uniform crime reporting by reporting certain information to the Department of Public Safety, State Bureau of Identification, and the bureau is required to share its annual reports with tribal law enforcement agencies.

Other changes include revisions to the definition of "another jurisdiction" in the Maine Criminal Code to include criminal convictions by courts of federally recognized Indian tribes. This change is consistent with federal law and the recognition of orders of protection from abuse from the courts of federally recognized Indian tribes by the Maine Revised Statutes, Title 19-A, section 4011.

The changes to the Act To Implement the Maine Indian Claims Settlement included in chapter 621 do not take effect unless the Passamaquoddy Tribe and the Penobscot Nation approve of the changes and certify their approval.

**LD 776      An Act Regarding Post-judgment Motion by a Person Seeking To Satisfy      CARRIED OVER**  
**the Prerequisites for Obtaining Special Restrictions on the**  
**Dissemination and Use of Criminal History Record Information for**  
**Certain Criminal Convictions**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R JACKSON T		

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill amends the law concerning a post-judgment motion by a person seeking to satisfy the prerequisites for obtaining special restrictions on the dissemination and use of criminal history record information for certain criminal convictions in the following ways:

1. Current law makes convictions of only certain Class E crimes eligible for special restrictions on dissemination and use of criminal history record information. This bill expands eligibility to include convictions of both certain Class E crimes and certain Class D crimes;
2. Current law allows eligibility for restrictions on dissemination and use of criminal history record information only for persons who at the time of the commission of the crime were 18 to 20 years of age. This bill expands eligibility to a person who at the time of the commission of the crime was 18 to 25 years of age; and
3. This bill removes the provision repealing the current law October 1, 2019.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 793      An Act To Improve Accountability of Opioid Manufacturers      PUBLIC 536**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON T MADIGAN C	OTP-AM ONTP	S-320 S-321 JACKSON T

## *Joint Standing Committee on Judiciary*

This bill was passed to be enacted by the Legislature and then held by the Governor at the end of the First Regular Session of the 129th Legislature. The bill became law without signature at the beginning of the Second Regular Session.

This bill prohibits opioid medication manufacturers and distributors from falsely advertising that an opioid medication does not have abuse liability or has a lower abuse liability than another opioid medication; distributing a quantity of opioid medications that is not medically reasonable; or failing to report orders that are not medically reasonable. It establishes a civil violation and authorizes the Attorney General to investigate violations. It creates a fund into which the penalties and fees must be paid. This legislation applies retroactively to January 1, 1985.

### **Committee Amendment "A" (S-320)**

This amendment is the majority report of the committee and it replaces the bill.

The amendment raises the annual fee for a manufacturer of opioid medication to \$55,000. The amendment establishes a registration fee due from manufacturers of opioid medications of \$250,000 if the manufacturer sells, delivers or distributes 2,000,000 or more units of an opioid medication within this State, not including units that are prescribed for the purpose of medication-assisted treatment of substance use disorder. The fees are deposited into the Opioid Use Disorder Prevention and Treatment Fund, which is established to provide opioid use disorder prevention and treatment services and administered by the Department of Health and Human Services.

The amendment also requires manufacturers and wholesale distributors of opioid medications to provide to the State the same information as provided to the United States Drug Enforcement Administration under its Automation of Reports and Consolidated Orders System regarding controlled substances transactions in this State on the same schedule that information is provided to the Federal Government.

The amendment requires the Maine Board of Pharmacy to evaluate and report whether the fees have affected the prescribing practices for opioid medications by reducing the number of opioid medication prescriptions issued during calendar years 2020, 2021 and 2022 or whether the fees have created any unintended consequences in the availability of opioid medications for the treatment of chronic or intractable pain, to the extent the board has the ability to identify a correlation. The board shall provide the report to the joint standing committee of the Legislature having jurisdiction over health and human services matters, which may report out legislation based upon the report. The reports must be submitted annually by March 1st.

### **Senate Amendment "A" To Committee Amendment "A" (S-321)**

This amendment exempts from the opioid medication fee a manufacturer of opioid medications exclusively for use in veterinary medicine.

### **Enacted Law Summary**

Public Law 2019, chapter 536 raises the annual fee for a manufacturer of opioid medication to \$55,000, and establishes a registration fee due from manufacturers of opioid medications of \$250,000 if the manufacturer sells, delivers or distributes 2,000,000 or more units of an opioid medication within this State, not including units that are prescribed for the purpose of medication-assisted treatment of substance use disorder. The fees are deposited into the Opioid Use Disorder Prevention and Treatment Fund, which is established to provide opioid use disorder prevention and treatment services and administered by the Department of Health and Human Services.

Chapter 536 also requires manufacturers and wholesale distributors of opioid medications to provide to the State the same information as provided to the United States Drug Enforcement Administration under its Automation of Reports and Consolidated Orders System regarding controlled substances transactions in this State on the same schedule that information is provided to the Federal Government.

*Joint Standing Committee on Judiciary*

Chapter 536 requires the Maine Board of Pharmacy to evaluate and report whether the fees have affected the prescribing practices for opioid medications by reducing the number of opioid medication prescriptions issued during calendar years 2020, 2021 and 2022 or whether the fees have created any unintended consequences in the availability of opioid medications for the treatment of chronic or intractable pain, to the extent the board has the ability to identify a correlation. The board shall provide the report to the joint standing committee of the Legislature having jurisdiction over health and human services matters, which may report out legislation based upon the report. The reports must be submitted annually by March 1st.

**LD 954      An Act To Rescind An Act To Implement the Maine Indian Claims Settlement      CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill repeals An Act to Implement the Maine Indian Claims Settlement. The repeal does not take effect unless approved by the Houlton Band Council of the Houlton Band of Maliseet Indians, the Tribal Chief and the Council of the Penobscot Nation and the Joint Tribal Council of the Passamaquoddy Tribe within 90 days after the adjournment of the First Regular Session of the 129th Legislature.

This bill, which had been referred to committee but not yet heard, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1021      An Act To Require the Maine Commission on Indigent Legal Services To Pay Court-appointed Attorneys for Certain Probate Court Cases      CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill provides that when a probate court appoints an attorney for a party in a guardianship or protective proceeding, if the party is indigent or a minor, the attorney's fees must be paid by the Maine Commission on Indigent Legal Services.

This bill, which had been reported out of committee but not yet taken up by the House or the Senate, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1053      An Act To Reduce the Duration of Execution Liens      PUBLIC 622**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COOPER J BELLOWS S	OTP-AM	H-716

*Joint Standing Committee on Judiciary*

This bill was carried over in committee from the First Regular Session of the 129th Legislature by order, H.P. 1322.

Current law provides that a judgment or decree of a court of record of the United States or of any state is presumed to be paid and satisfied at the end of 20 years after any duty or obligations accrued by virtue of such judgment or decree. This bill provides an exception to this law for a judgment or decree based upon a consumer obligation, which is irrebuttably presumed to be paid and satisfied at the end of one year after any duty or obligation accrued by virtue of the judgment or decree unless within that period the judgment creditor has commenced other action as permitted by law for the enforcement of the judgment or decree.

**Committee Amendment "A" (H-716)**

This amendment replaces the bill and provides that an execution lien created on or after September 1, 2020, for any underlying judgment, expires at the end of 10 years unless it is renewed before the expiration of the 10-year period. The renewal period is also 10 years. The lien can be renewed once.

The amendment provides that the current law, which provides for a 20-year duration and a 20-year renewal period, applies to liens created before September 1, 2020.

**Enacted Law Summary**

Public Law 2019, chapter 622 provides that an execution lien created on or after September 1, 2020, for any underlying judgment, expires at the end of 10 years unless it is renewed before the expiration of the 10-year period. The renewal period is also 10 years. The lien can be renewed once.

Public Law 2019, chapter 622 provides that the current law, which provides for a 20-year duration and a 20-year renewal period, applies to liens created before September 1, 2020.

**LD 1061      An Act To Establish a Fund To Compensate Unjustly Incarcerated Persons      CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill creates the Unjustly Incarcerated Persons Compensation Fund and establishes compensation amounts and a process for the application for and determination of compensation for persons unjustly incarcerated. The bill establishes compensation of \$25,000 per year of unjust incarceration and \$10,000 for each year that the person eligible for compensation was required to register as a sex offender.

The bill repeals the existing law providing a maximum payment of \$300,000 for wrongful imprisonment that is based on a pardon granted on the basis of innocence.

This bill, which had not yet been voted by the committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

*Joint Standing Committee on Judiciary*

**LD 1067    An Act To Promote Fairness and Efficiency in the Delivery of Indigent Legal Services**

**CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

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

This bill proposes to implement the recommendations of a national center dedicated to protecting rights secured by the Sixth Amendment to the United States Constitution regarding the delivery of indigent legal services in Maine.

This bill, which had not yet been voted by the committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1073    Resolve, To Implement an Intensive Drug Treatment Court Pilot Project in the Midcoast**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DEVIN M DOW D	ONTP OTP-AM	H-475

This resolve was carried over from the First Regular Session of the 129th Legislature on the Special Appropriations Table by joint order, H.P. 1322.

This resolve establishes an intensive drug treatment court two-year pilot project in the midcoast area of the State to be operational no later than November 1, 2019. The pilot project will serve 10 participants who meet the requirements for participation in drug court programs. The support services provided by the Department of Health and Human Services under the pilot project are more intensive than those provided to current participants in drug court programs. The department is required to provide an interim report on implementation and a final report that includes the results of an independent evaluation of the project.

**Committee Amendment "A" (H-475)**

This amendment is the minority report of the committee. It revises the number of participants in the pilot project from 10 to 25. The amendment also replaces the appropriations and allocations section.

This resolve was again carried over, still on the Special Appropriations Table, to any special session of the 129th Legislature by joint order, S.P. 788.

***Joint Standing Committee on Judiciary***

**LD 1229      Resolve, To Establish the Committee To Study and Develop  
Recommendations To Address Guardianship Challenges That Delay  
Patient Discharges from Hospitals**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCCREIGHT J DAVIS P	OTP-AM	H-452

This resolve was carried over from the First Regular Session of the 129th Legislature on the Special Study Table by joint order, H.P. 1322.

This resolve establishes the Committee To Study and Develop Recommendations To Address Guardianship Challenges That Delay Patient Discharges from Hospitals. The committee is required to study and develop recommendations to address guardianship, conservatorship and authorization of transaction challenges that result in extended hospitalization of patients clinically qualified for discharge from a hospital.

**Committee Amendment "A" (H-452)**

This amendment revises the membership of the study committee, requires the report to be submitted to both the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Judiciary, authorizes both committees to report out legislation based on the report to the Second Regular Session of the 129th Legislature and adds an emergency preamble and clause. It also allows the study committee to accept outside contributions, approved by the Legislative Council, to help fund the study committee.

This resolve was again carried over, still on the Special Study Table, to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1291      An Act To Update the Maine Parentage Act**

**CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

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

This bill proposes to enact changes to the Maine Parentage Act that have been adopted as updates to the Uniform Parentage Act by the Uniform Law Commission.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

***Joint Standing Committee on Judiciary***

**LD 1294      Resolve, Directing the Maine Human Rights Commission To Implement  
a Pilot Program To Investigate and Report on Incidents of Harassment  
Due to Housing Status, Lack of Employment and Other Issues**

**RESOLVE 113**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R MOORE M	OTP ONTP	H-666    TALBOT ROSS R

This resolve was finally passed by the Legislature and then held by the Governor at the end of the First Regular Session of the 129th Legislature. During the Second Regular Session, the resolve was recalled from the Governor's desk and, as described in this summary, was acted upon without reference to committee.

This resolve directs the Maine Human Rights Commission to create a two-year pilot program to receive, review and investigate incidents and complaints of harassment due to a person's lack of employment or housing status and other reports of interference with a person's access to public accommodations. In carrying out the pilot program, the commission must investigate and respond to incidents and complaints of harassment as set out in the Maine Revised Statutes, Title 5, sections 4611 and 4612. The commission is authorized to use any of its powers under Title 5, section 4566 to carry out the pilot program and may limit its scope. The commission is authorized to establish an advisory board to document and evaluate complaints and to advise the commission as to which incidents and complaints should be acted on and possible solutions. The commission is directed to produce an interim report for submission to the Joint Standing Committee on Judiciary by September 15, 2020, and a final report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by September 15, 2021. The reports are authorized to contain recommendations on changes to the program or for its continuation as well as proposed legislation to carry out any recommendations.

**House Amendment "A" (H-666)**

This amendment, which was adopted in the Second Regular Session after the resolve was recalled from the Governor's desk, removes the authority of the Maine Human Rights Commission to establish an advisory board to assist the commission in carrying out the pilot program. The amendment also extends by one year the due dates for the interim and final reports of the commission.

**Enacted Law Summary**

Resolve 2019, chapter 113 directs the Maine Human Rights Commission to create a two-year pilot program to receive, review and investigate incidents and complaints of harassment due to a person's lack of employment or housing status and other reports of interference with a person's access to public accommodations. In carrying out the pilot program, the commission must investigate and respond to incidents and complaints of harassment as set out in the Maine Revised Statutes, Title 5, sections 4611 and 4612. The commission is authorized to use any of its powers under Title 5, section 4566 to carry out the pilot program and may limit its scope. The commission is directed to produce an interim report for submission to the Joint Standing Committee on Judiciary by September 15, 2021, and a final report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by September 15, 2022. The reports are authorized to contain recommendations on changes to the program or for its continuation as well as proposed legislation to carry out any recommendations.

**LD 1380      An Act To Transfer the Violations Bureau from the Courts to the Office  
of the Secretary of State**

**ONTP**

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

***Joint Standing Committee on Judiciary***

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill transfers the responsibilities of the Violations Bureau, which processes traffic infractions, from the Judicial Branch to the Office of the Secretary of State.

**LD 1392     An Act To Establish a Formal Tribal Consultation Process with the State     CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NEWELL R MIRAMANT D		

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill requires a state agency to develop and implement a policy that:

1. Promotes effective communication between the state agency and federally recognized Indian tribes in the State;
2. Promotes positive government-to-government relations between the State and federally recognized Indian tribes in the State; and
3. Enables federally recognized Indian tribes in the State to consult with the state agency in a meaningful and timely manner regarding the development of legislation, rules and policies proposed by the state agency on matters that significantly or uniquely affect the tribes.

This bill, which had not yet been voted by the committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1421     An Act To Amend the Maine Bail Code     CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R BREEN C		

This bill was carried over in the Criminal Justice and Public Safety Committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322. It was re-referred to the Judiciary Committee during the Second Regular Session.

This bill amends the Maine Bail Code in the following ways. It:

1. Clarifies the rebuttable presumption that, except for formerly capital offenses, a defendant must be released on personal recognizance with no conditions;
2. Increases the burden of proof for justifying not releasing a defendant on personal recognizance or upon execution of an unsecured appearance bond;
3. Removes from the list of authorized bail conditions the condition of refraining from the possession, use or

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excessive use of alcohol or use of illegal drugs, the condition of reporting on a regular basis to the defendant's attorney and the condition of returning to custody for specified hours after work release, schooling or other purposes;

4. Removes from bail conditions requirements that the defendant refrain from criminal conduct and that the integrity of the judicial system be ensured;
5. Makes changes to the information that must be taken into account when determining bail for the defendant;
6. Requires a judicial officer when determining bail to find by clear and convincing evidence that imposing a financial condition on a defendant will not cause excessive financial hardship on the defendant and requires that judicial officer to state on the record or in writing the findings upon which the determination is made; and
7. Adds to the list of facts a judicial officer must consider when determining bail whether the defendant is the primary person responsible for the care of another, has a health care need including a mental health care need that is being met or would be better met outside of custody or has employment that would be affected if the defendant is placed in custody.

This bill, which had not yet been voted by the committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

### **LD 1426     An Act To Increase Protections for Land Installment Contracts**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARNETT T BELLOWS S	OTP-AM ONTP	H-582

This bill was passed to be enacted by the Legislature and then held by the Governor at the end of the First Regular Session of the Legislature. During the Second Regular Session it was recalled from the Governor's desk and then tabled in the House without reference to committee.

This bill expands the definition of "land installment contracts," creates foreclosure procedures for residential land installment contracts that include a 90-day redemption period and removes the right to cure of the purchaser and imposes mortgagee requirements on the foreclosing party. This bill also requires the vendor of a land installment contract to certify that the property meets the warranty of habitability under state law, makes the vendor of a land installment contract a creditor under the Maine Consumer Credit Code and, along with other remedies, makes a violation of the provisions regarding land installment contracts a violation under the Maine Unfair Trade Practices Act.

#### **Committee Amendment "A" (H-582)**

This amendment was the majority report of the committee in the First Regular Session. It amends the bill to make clear that the parties to a rent-to-own or option-to-buy contract may agree to treat the agreement as a residential lease subject to the rental statutes in the Maine Revised Statutes, Title 14, chapters 709, 710 and 710-A; otherwise the residential properties foreclosure procedures apply. If the contract is treated as a residential lease agreement, the down payment is treated as a security deposit and must be returned when the rental ends.

The bill requires vendors who engage in land installment contracts to be treated as creditors under the Maine Consumer Credit Code. The amendment exempts vendors who engage in no more than one land installment contract per year.



***Joint Standing Committee on Judiciary***

**LD 1554    Resolve, Establishing a Commission To Reform Child Protective Services**

**CARRIED OVER**

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

This resolve was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H. P. 1322.

This resolve establishes the Commission To Reform Child Protective Services. The commission is required to submit a report, including suggested legislation, for presentation to the Second Regular Session of the 129th Legislature.

This resolve, which had been reported out of committee but not yet taken up by the House or the Senate, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1575    An Act To Improve the Freedom of Access Laws of Maine**

**CARRIED OVER**

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

The bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

The purpose of this bill is to enhance access to public records without imposing undue burdens on the efficient and effective functioning of government. This bill makes the following changes to the Freedom of Access Act.

1. Current law defines public records that are subject to the Freedom of Access Act as matter in the possession or custody of an agency or public official that has been received or prepared for use in connection with, or that contains information relating to, the transaction of public or governmental business. This bill defines "public or governmental business" as the administration of public policy and the exercise of governmental power through laws, rules, ordinances, regulations and the equivalent.
2. The bill requires that, when requesting to inspect or to receive a copy of a public record, a person must provide to the agency or official with custody of the record sufficient information to identify the record sought. Under the bill, a request for a public record must include, at a minimum, the specific subject matter contained in the record and the date or dates upon which the record was created or a range of dates within which the record may have been created.
3. Current law requires that, within "a reasonable time" of receiving a request for information, the agency or official must provide a good faith, nonbinding estimate of the time within which the agency or official will comply. This bill instead requires that the agency or official, within 30 days of receiving the request, provide to the requester an update on progress on the request and, within 30 days of providing the update, fulfill the request. If the agency or official is unable to fulfill the entirety of the request within the specified time period, the agency or official must provide to the requester an explanation of the reason or reasons it was unable to comply, fulfill those portions of the request that it can fulfill and provide a written estimate of the expected date of compliance with the remainder of the request.

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4. The bill directs the Right To Know Advisory Committee to examine the specific challenges of ensuring public access to public records in the face of new and emerging technologies and to develop recommendations that are designed to preserve communications that can be accessed by the public. The Right To Know Advisory Committee is directed to report its findings and recommendations to the Joint Standing Committee on Judiciary, which is authorized to report out a bill to the Second Regular Session of the 129th Legislature.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1598      An Act To Define the Responsibilities of Property Owners for the Maintenance and Repair of Private Roads      CARRIED OVER**

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

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill establishes responsibility for the repair and maintenance of private roads and private ways that benefit residential properties. Unless there is an agreement, restriction, covenant or road association that specifies the cost to be paid by each owner of a benefited property, the cost is shared in proportion to the benefit received by each owner of benefited property. An owner who damages a private road or private way that benefits other residential properties is solely responsible for the cost of repairs to fix the damage. An owner who fails to comply may be forced to comply through an action brought by other owners on the private road or private way.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1612      An Act Regarding the Presumption of Abandonment of Gift Obligations      PUBLIC 553**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GIDEON S LIBBY N	OTP-AM	H-661 BAILEY D

This bill was passed to be enacted by the Legislature and then held by the Governor at the end of the First Regular Session of the 129th Legislature. During the Second Regular Session, it was recalled from the Governor's desk and, as described in this summary, was acted upon without reference to committee.

Under current law, a gift obligation card, which includes a gift certificate, gift card and online gift account, is considered abandoned two years after the expiration of the calendar year in which it was purchased or last used. This bill removes the presumption of abandonment for gift obligation cards.

**Committee Amendment "A" (H-613)**

This amendment was the unanimous report of the committee in the First Regular Session. It provides that this legislation, which exempts gift obligation cards from the Uniform Unclaimed Property Act by establishing that a gift obligation card is never presumed abandoned, is effective January 1, 2021, and applies to gift obligation cards sold



*Joint Standing Committee on Judiciary*

This resolve establishes the Conference To Address and Improve Relations between Maine Indian Tribes and the Legislature to develop meaningful conversations among the members of the conference on communication and policy differences that led to the breakdown between the Legislature and the tribal representatives to the Legislature and how better to communicate and improve the relationship between the Legislature and Maine Indian tribes. Ex officio members of the conference are the President of the Senate, the Speaker of the House, the Senate Minority Leader and the House Minority Leader, who are directed to invite as members of the conference the Chief of the Aroostook Band of Micmacs, the Chief of the Houlton Band of Maliseet Indians, the Chief of the Penobscot Indian Nation, the Chief of the Passamaquoddy Tribe at Indian Township and the Chief of the Passamaquoddy Tribe at Pleasant Point.

This resolve, which had been referred to committee but not yet heard, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1670 An Act To Limit the Dissemination of Juvenile Records**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R	ONTP	H-594

This bill was passed to be enacted by the Legislature and then held by the Governor at the end of the First Regular Session of the 129th Legislature. During the Second Regular Session, it was recalled from the Governor's desk and was re-committed to committee. It was ultimately and reported out of committee as Ought Not To Pass because the content of the bill is contained in the final version of LD 1964.

The bill changes the sealing process for juvenile records to provide that at the time a person who is adjudicated to have committed a juvenile crime is discharged from the disposition ordered for that juvenile crime, the court is required to automatically and immediately enter an order sealing from public inspection all records pertaining to the juvenile crime and its disposition.

**Committee Amendment "A" (H-594)**

This amendment was the majority report of the committee in the First Regular Session.

The bill provides for the automatic sealing of all records of juvenile crimes once the juvenile is finally discharged from the disposition ordered for the crime. This amendment restores the three-year waiting period after discharge and the petition process for sealing records of juvenile crimes and provides that the petition process applies to crimes that, if the juvenile were an adult, would constitute murder, aggravated attempted murder, attempted murder, Class A manslaughter other than the reckless or criminally negligent operation of a motor vehicle, elevated aggravated assault on a pregnant person, elevated aggravated assault, arson that recklessly endangers any person, causing a catastrophe, Class A robbery, any Class A or Class B sex crimes or operating under the influence.

This amendment clarifies that the court is required to seal the record for other juvenile crimes when it receives appropriate notice that the juvenile has been finally discharged from the disposition ordered. That notice must come from the Department of Corrections, the district attorney or the juvenile or the juvenile's attorney. If the juvenile or the juvenile's attorney is providing the notice, the notice must first be served on the office of the district attorney who prosecuted the juvenile crime.

This amendment provides that the court must send the order sealing the record to the Department of Public Safety, Bureau of State Police, State Bureau of Identification, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources or the Department of the Secretary of State, Bureau of Motor Vehicles, as appropriate.



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5. Clarifying the scope of the Maine Human Rights Act application in education.

The bill also clarifies the protections provided to pregnant persons in employment and that the sexual orientation provisions already in the Maine Human Rights Act extend to gender identity.

### **Committee Amendment "A" (H-643)**

This amendment was the majority report of the committee in the First Regular Session. It removes housing from the list in the policy section of activities for which it is illegal to discriminate on the basis of age. The bill clarifies the Maine Human Rights Act by adding "or gender identity" where the phrase "sexual orientation" currently is in place; the amendment does the same throughout the rest of the Maine Revised Statutes.

This amendment was adopted in the First Regular Session, but was removed and replaced by House Amendment "C" in the Second Regular Session.

### **Senate Amendment "A" (S-349)**

This amendment strikes from the bill the clarifications of protections provided to pregnant persons in employment because they are covered by another bill.

This amendment was adopted in the First Regular Session but was removed and replaced by House Amendment "C" in the Second Regular Session.

### **House Amendment "A" (H-654)**

This amendment removes references to bona fide nonprofits regarding religious entities.

This amendment was adopted in the First Regular Session but was removed and replaced by House Amendment "C" in the Second Regular Session.

### **House Amendment "B" (H-663)**

This amendment, which was adopted in the Second Regular Session after the bill was recalled from the Governor's Desk, incorporates the substance of the bill, as amended by Committee Amendment "A," Senate Amendment "A" and House Amendment "A" and it strikes from the bill a provision that makes it unlawful public accommodations discrimination under the Maine Human Rights Act for any public entity to discriminate on the basis of protected class.

It updates the statutory sections to reflect changes in the law that were enacted in the First Regular Session of the 129th Legislature.

This amendment was not offered or adopted. See House Amendment "C".

### **House Amendment "C" (H-665)**

This amendment incorporates the substance of the bill, as amended by Committee Amendment "A," Senate Amendment "A" and House Amendment "A" and makes the following changes:

1. It strikes from the bill a provision that makes it unlawful public accommodations discrimination under the Maine Human Rights Act for any public entity to discriminate on the basis of protected class because that provision duplicates changes made in LD 1701, Public Law 2019, chapter 464; and
2. It retains a provision in current law that makes it unlawful discrimination for a qualified individual with a disability, by reason of that disability, to be excluded from participation in or denied the benefits of the services, programs or activities of a public entity or subjected to discrimination by a public entity.





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a law school accredited by the American Bar Association when the practice is pursuant to a rule of the Supreme Judicial Court.

### **Enacted Law Summary**

Public Law 2019, chapter 597 provides an exception to the unauthorized practice of law for practice by a law student enrolled in a law school accredited by the American Bar Association when the practice is pursuant to a rule of the Supreme Judicial Court.

**LD 1862      Resolve, Authorizing the Probate and Trust Law Advisory Commission To Submit Trust Decanting Legislation      **CARRIED OVER****

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

This resolve directs the Probate and Trust Law Advisory Commission to review the existing trust laws of this State and the Uniform Trust Decanting Act from the National Conference of Commissioners on Uniform State Laws and develop legislative recommendations based on the review. The Probate and Trust Law Advisory Commission may submit a bill to the Second Regular Session of the 129th Legislature.

This resolve, which had been reported out of committee but not yet taken up by the House or the Senate, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1863      An Act To Amend the Maine Uniform Probate Code      **PUBLIC 598****

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

This bill includes recommendations from the Probate and Trust Law Advisory Commission pursuant to the Maine Revised Statutes, Title 18-C, section 1-803.

The bill amends Title 18-C, section 3-306 to add language that previously existed in Title 18-A, section 3-306 in order to ensure that heirs, devisees and personal representatives are given notice of the filing of an application for informal probate.

The bill adds language to Title 18-C, section 3-310 that previously existed in Title 18-A, section 3-310 in order to ensure that heirs and devisees are given notice of the filing of an application for informal appointment of a personal representative. The changes to Title 18-C, section 3-310 parallel the amendment made to Title 18-C, section 3-306.

The bill amends Title 18-C, section 3-706, subsection 1 to clarify that the personal representative is required to send a copy of the inventory to all interested persons "who request" the inventory. Both the former counterpart provision under Title 18-A and the counterpart provision under the Uniform Probate Code require the personal representative to furnish the inventory only to persons "who request" the inventory; Title 18-C, section 3-706, subsection 2 states that "the personal representative shall furnish the inventory to interested persons who request it."

The bill amends Title 18-C, section 3-801, subsection 1 to require that notice of the appointment of a personal representative be published to creditors in the county where the decedent was domiciled at the time of death, rather than in the county in which the court that appointed the personal representative is located. When an application for

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appointment of a personal representative is transferred from the county where the decedent was domiciled to another county before the date of the appointment of the personal representative, notice to creditors by publication in the county to which the application was transferred will be unlikely to be seen by interested persons and creditors.

The bill amends Title 18-C, section 5-906, subsection 5, which was added to the Maine Uniform Power of Attorney Act with an effective date of September 1, 2019 and which governs the validity of executed powers of attorney, to add language clarifying that the subsection does not affect powers of attorney executed before September 1, 2019. The notices required in powers of attorney by Title 18-C, section 5-905, subsection 2 include references to Title 18-C. The notices required in powers of attorney under Title 18-A, section 5-905, subsection (b) were identical to the notices required by Title 18-C, section 5-905, subsection 2 with the exception of including references to Title 18-A rather than to Title 18-C. Subsection 5 was added to Title 18-C to protect against the likelihood that attorneys or others preparing powers of attorney might overlook the need to change the notices to reference Title 18-C.

The bill amends Title 18-C, section 5-931 to clarify that the authority of an agent under a power of attorney to create or change a beneficiary designation, unless otherwise expressly limited in the power of attorney, includes the authority to create, change or revoke a transfer on death deed. As the Maine Uniform Power of Attorney Act currently reads, there is ambiguity as to whether an agent under a power of attorney has the authority to create, change or revoke a transfer on death deed created under the Uniform Real Property Transfer on Death Act, which became effective on September 1, 2019. Under Title 18-C, section 5-931 of the Maine Uniform Power of Attorney Act, there are several powers that an agent may exercise only if the authority to exercise the powers is expressly granted in the power of attorney. Among those powers is the power to create or change a beneficiary designation. Because a transfer on death deed is a type of beneficiary designation, this bill amends Title 18-C, section 5-931, subsection 1, paragraph D to make it clear that an agent who has the authority to create or change a beneficiary designation also has the authority to create, change or revoke a transfer on death deed.

The bill amends Title 18-C, section 8-301, subsection 2, paragraph A-1 to add a reference to the intestate succession provisions of Title 18-C to avoid any ambiguity as to the timing of the applicability of the intestate succession provisions of Title 18-C.

The bill amends Title 18-C, section 8-301, subsection 2, paragraphs A, B and C to add language clarifying that the provisions are effective "on or after" the effective date of Title 18-C.

The bill amends Title 18-C, section 8-301, subsection 2, paragraph F to restore the intestate succession involving adoptions completed before the original Probate Code took effect in 1981. Public Law 2019, chapter 417 erroneously changed the date to September 1, 2019. The bill makes the correction retroactive to September 1, 2019.

### **Enacted Law Summary**

Public Law 2019, chapter 598 consists of recommendations from the Probate and Trust Law Advisory Commission pursuant to the Maine Revised Statutes, Title 18-C, section 1-803.

Chapter 598 amends Title 18-C, section 3-306 to add language that previously existed in Title 18-A, section 3-306 in order to ensure that heirs, devisees and personal representatives are given notice of the filing of an application for informal probate.

Chapter 598 adds language to Title 18-C, section 3-310 that previously existed in Title 18-A, section 3-310 in order to ensure that heirs and devisees are given notice of the filing of an application for informal appointment of a personal representative. The changes to Title 18-C, section 3-310 parallel the amendment made to Title 18-C, section 3-306.

Chapter 598 amends Title 18-C, section 3-706, subsection 1 to clarify that the personal representative is required to

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send a copy of the inventory to all interested persons "who request" the inventory. Both the former counterpart provision under Title 18-A and the counterpart provision under the Uniform Probate Code require the personal representative to furnish the inventory only to persons "who request" the inventory; Title 18-C, section 3-706, subsection 2 states that "the personal representative shall furnish the inventory to interested persons who request it."

Chapter 598 amends Title 18-C, section 3-801, subsection 1 to require that notice of the appointment of a personal representative be published to creditors in the county where the decedent was domiciled at the time of death, rather than in the county in which the court that appointed the personal representative is located. When an application for appointment of a personal representative is transferred from the county where the decedent was domiciled to another county before the date of the appointment of the personal representative, notice to creditors by publication in the county to which the application was transferred will be unlikely to be seen by interested persons and creditors.

Chapter 598 amends Title 18-C, section 5-906, subsection 5, which was added to the Maine Uniform Power of Attorney Act with an effective date of September 1, 2019 and which governs the validity of executed powers of attorney, to add language clarifying that the subsection does not affect powers of attorney executed before September 1, 2019. The notices required in powers of attorney by Title 18-C, section 5-905, subsection 2 include references to Title 18-C. The notices required in powers of attorney under Title 18-A, section 5-905, subsection (b) were identical to the notices required by Title 18-C, section 5-905, subsection 2 with the exception of including references to Title 18-A rather than to Title 18-C. Subsection 5 was added to Title 18-C to protect against the likelihood that attorneys or others preparing powers of attorney might overlook the need to change the notices to reference Title 18-C.

Chapter 598 amends Title 18-C, section 5-931 to clarify that the authority of an agent under a power of attorney to create or change a beneficiary designation, unless otherwise expressly limited in the power of attorney, includes the authority to create, change or revoke a transfer on death deed. As the Maine Uniform Power of Attorney Act currently reads, there is ambiguity as to whether an agent under a power of attorney has the authority to create, change or revoke a transfer on death deed created under the Uniform Real Property Transfer on Death Act, which became effective on September 1, 2019. Under Title 18-C, section 5-931 of the Maine Uniform Power of Attorney Act, there are several powers that an agent may exercise only if the authority to exercise the powers is expressly granted in the power of attorney. Among those powers is the power to create or change a beneficiary designation. Because a transfer on death deed is a type of beneficiary designation, chapter 598 amends Title 18-C, section 5-931, subsection 1, paragraph D to make it clear that an agent who has the authority to create or change a beneficiary designation also has the authority to create, change or revoke a transfer on death deed.

Chapter 598 amends Title 18-C, section 8-301, subsection 2, paragraph A-1 to add a reference to the intestate succession provisions of Title 18-C to avoid any ambiguity as to the timing of the applicability of the intestate succession provisions of Title 18-C.

Chapter 598 amends Title 18-C, section 8-301, subsection 2, paragraphs A, B and C to add language clarifying that the provisions are effective "on or after" the effective date of Title 18-C.

Chapter 598 amends Title 18-C, section 8-301, subsection 2, paragraph F to restore the intestate succession involving adoptions completed before the original Probate Code took effect in 1981. Public Law 2019, chapter 417 erroneously changed the date to September 1, 2019. Chapter 598 makes the correction retroactive to September 1, 2019.

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**LD 1864 An Act To Correct the Maine Revised Unclaimed Property Act to Reflect Recent Changes**

**PUBLIC 571  
EMERGENCY**

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

This bill amends the Maine Revised Unclaimed Property Act to clarify the procedure for disposing of funds presumed abandoned in a lawyer's trust account.

**Enacted Law Summary**

Public Law 2019, chapter 571 amends the Maine Revised Unclaimed Property Act to clarify the procedure for disposing of funds presumed abandoned in a lawyer's trust account. This makes permanent the changes made in the First Regular Session by LD 1483, Public Law 2019, chapter 496 that were inadvertently repealed by the enactment of Public Law 2019, chapter 498.

Public Law 2019, chapter 571 was enacted as an emergency measure effective February 27, 2020.

**LD 1865 An Act To Amend the Protection from Abuse Laws Concerning Consent Agreements**

**PUBLIC 574**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY D	OTP-AM	H-674

This bill amends the protection from abuse laws to provide that parties are not precluded from voluntarily requesting a consent agreement without a finding by the court that the alleged conduct described in the Maine Revised Statutes, Title 19-A, section 4005, subsection 1 occurred.

**Committee Amendment "A" (H-674)**

This amendment clarifies that a court may grant a protection from abuse order without holding a hearing if the parties have voluntarily requested a consent agreement. The court may enter the protective order based on the consent agreement with or without a finding that the defendant engaged in abuse. If the protection from abuse order is granted to stop alleged conduct described in the Maine Revised Statutes, Title 19-A, section 4005, subsection 1, it may be granted with or without a finding that the alleged conduct occurred. Current law is silent on the issue of a protection from abuse order when the parties request a consent agreement based on alleged conduct, as opposed to abuse.

**Enacted Law Summary**

Public Law 2019, chapter 574 provides that a court may grant a protection from abuse order without holding a hearing if the parties have voluntarily requested a consent agreement. The court may enter the protective order based on the consent agreement with or without a finding that the defendant engaged in abuse. If the protection from abuse order is granted to stop alleged conduct described in the Maine Revised Statutes, Title 19-A, section 4005, subsection 1, it may be granted with or without a finding that the alleged conduct occurred.

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**LD 1897      An Act To Authorize the Expungement of Records of Nonviolent Crimes      ONTP**

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

This bill allows a person convicted of a Class E, Class D or Class C crime to petition the court where the person was convicted to expunge all records of the crime five years after the completion of the person's sentence. Expungement is not available for persons who have subsequent convictions or pending criminal charges; for crimes involving bribery, corruption, violence or sex offenses; or for crimes that had as an element of the offense victims who were minors or were 65 years of age or older.

**LD 1907      An Act To Restore to the Penobscot Nation and Passamaquoddy Tribe      CARRIED OVER**  
**the Authority To Exercise Jurisdiction under the Federal Tribal Law**  
**and Order Act of 2010**

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

This bill amends the Act To Implement the Maine Indian Claims Settlement by:

1. Extending the criminal jurisdiction of the Penobscot Nation and the Passamaquoddy Tribe to persons who are not members of any federally recognized Indian tribe, nation, band or other group when such persons commit certain crimes on the Penobscot Indian Reservation or the Passamaquoddy Indian Reservation;
2. Expanding the jurisdiction of the Penobscot Nation and the Passamaquoddy Tribe from criminal offenses with a maximum period of imprisonment of one year and a maximum fine of \$5,000 for any one offense to criminal offenses with a maximum period of imprisonment of three years and a maximum fine of \$15,000 for any one offense but not to exceed a total penalty or punishment greater than imprisonment for nine years, as authorized by the federal Tribal Law and Order Act of 2010, Public Law 111-211; and
3. Ensuring that defendants prosecuted in the Penobscot Nation Tribal Court and Passamaquoddy Tribal Court have the rights afforded defendants by the federal Tribal Law and Order Act of 2010, Public Law 111-211; 25 United States Code, Section 1302 (2019); and the United States Constitution.

This bill, which had been referred to committee but not yet heard, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1953      An Act Regarding Driver's License Suspensions for Nondriving      PUBLIC 603**  
**Violations**

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

This bill does the following.

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1. It removes the provisions of law that provide for the suspension of a driver's license or permit for failure to pay a fine for an offense not related to driving and strikes the October 1, 2021, repeal provisions.
2. It repeals the provision of law that provides for the issuance of a restricted driver's license for failure to pay a fine for offenses not related to driving.
3. It repeals the provision, effective on October 1, 2021, that provides the statutory exemptions from attachment and execution for certain property do not apply to enforcement of fines owed to the State.

### **Enacted Law Summary**

Public Law 2019, chapter 603 does the following.

1. It removes the provisions of law that provide for the suspension of a driver's license or permit for failure to pay a fine for an offense not related to driving and strikes the October 1, 2021, repeal provisions.
2. It repeals the provision of law that provides for the issuance of a restricted driver's license for failure to pay a fine for offenses not related to driving.
3. It repeals the provision, effective on October 1, 2021, that provides the statutory exemptions from attachment and execution for certain property do not apply to enforcement of fines owed to the State.

<b>LD 1960</b>	<b>An Act To Protect Communications between Bargaining Agents and Bargaining Unit Members</b>	<b>ONTP</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYLVESTER M	ONTP	

This bill makes communications between a bargaining agent and a municipal or state employee confidential in proceedings before the Maine Labor Relations Board to the same extent that such communications would be subject to the lawyer-client privilege under the Maine Rules of Evidence if the bargaining agent were a lawyer.

<b>LD 1963</b>	<b>An Act To Preserve the Value of Abandoned Properties by Allowing Entry by Mortgagees</b>	<b>PUBLIC 647</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J JACKSON T	OTP-AM	H-759

The purpose of this bill is to assist communities and financial institutions when a home becomes abandoned by the property owner. This bill allows, under specific circumstances, a mortgagee or mortgage servicer to enter the property, secure the property and prevent further deterioration. This bill enhances the existing abandoned property laws and provides specific procedures for mortgage servicers and their designees to enter abandoned property for the purpose of abating an identified nuisance, preserving property or preventing waste. Mortgage servicers and their designees must post notices on properties prior to entering them, and the notices must contain information about the rights of the property owners and authorized occupants. Mortgage servicers and their designees may not enter property that is occupied.

### **Committee Amendment "A" (H-759)**

This amendment replaces the bill. It allows a mortgage loan servicer to take certain actions to preserve the value of

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residential property that is the subject of a foreclosure action if the mortgaged premises are presumed abandoned.

A mortgage loan servicer or its designee may not enter occupied property. A mortgagee, its mortgage loan servicer, its designee or a third-party agent or other person acting on behalf of the mortgagee may not force, intimidate, harass or coerce a lawful occupant of residential property to vacate the property so that it may be considered abandoned. A violation of these provisions is deemed a violation of the Maine Revised Statutes, Title 14, section 6113, which imposes a duty of good faith on mortgage loan servicers.

### **Enacted Law Summary**

Public Law 2019, chapter 647 allows a mortgage loan servicer to take certain actions to preserve the value of residential property that is the subject of a foreclosure action if the mortgaged premises are presumed abandoned. The mortgage loan servicer may file an affidavit attesting the abandonment factors found, and the affidavit must include a statement that a municipal, county or state official, code enforcement officer or law enforcement official was present when the abandonment factors were observed. The affidavit must be filed with the court, with copies mailed to the parties as required by the Maine Rules of Civil Procedure. Once the affidavit is filed, the mortgage loan servicer may take steps to secure the property.

A county or municipality is not liable for any damages caused by an act or omission of the mortgage loan servicer or its designee.

The mortgage loan servicer or its designee must make a record of every entry of the premises and may not remove personal items from the premises unless they are hazardous or perishable. Before entering the premises, the mortgage loan servicer or its designee must post a notice on the front door that explains the rights of the property owner or occupant authorized by the owner, including how to contact the mortgage loan servicer or its designee and how to contact the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection's foreclosure hotline.

A mortgage loan servicer or its designee may not enter occupied property. A mortgagee, its mortgage loan servicer, its designee or a third-party agent or other person acting on behalf of the mortgagee may not force, intimidate, harass or coerce a lawful occupant of residential property to vacate the property so that it may be considered abandoned. A violation of these provisions is deemed a violation of the Maine Revised Statutes, Title 14, section 6113, which imposes a duty of good faith on mortgage loan servicers.

### **LD 1964    An Act To Limit Access to Juvenile Case Records and Protect the Confidentiality of Juvenile History Record Information**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R JACKSON T		

This bill defines "confidential juvenile history record information" and "public juvenile history record information" and creates statutory authority governing the dissemination of juvenile history record information by a Maine criminal justice agency to create consistency between which juvenile case records may be open to public inspection at the courts and information that may be shared publicly by a criminal justice agency.

It modifies the Maine Juvenile Code to limit access to juvenile case records and reorganize existing provisions based on whether they allow disclosure of a juvenile's identity, allow inspection of juvenile case records, allow dissemination of juvenile case records or allow the general public access to Juvenile Court proceedings. It provides that a victim or an agent of the victim may inspect the juvenile petition and order of adjudication regardless of whether the general public may do so.

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This bill allows automatic public inspection of juvenile petitions only if the petition alleges murder, felony murder or manslaughter and the juvenile has attained 13 years of age at the time of the offense. Petitions alleging that a juvenile under 13 years of age has committed murder, felony murder, manslaughter, aiding or soliciting suicide or any crime that would be a Class A, B or C crime may be open to public inspection only if authorized by court order. Juvenile petitions may be open to public inspection only after the juvenile's first appearance in the Juvenile Court to ensure that the Juvenile Court has determined there is probable cause to believe the juvenile committed the crime alleged and there is no assertion that the juvenile is not competent to proceed in the Juvenile Court.

It provides that only orders of adjudication for juvenile crimes that would constitute murder or Class A, B or C crimes if the juvenile were an adult are open to public inspection and dissemination by a court or criminal justice agency.

It clarifies that the general public may not be excluded from any Juvenile Court proceeding when a juvenile petition is open to public inspection pursuant to statute or court order. A victim or an agent of the victim may be present at all court proceedings regardless of whether the proceeding is open to the general public.

It makes all juvenile case records and all Juvenile Court proceedings confidential when Juvenile Court proceedings are suspended due to an assertion by the juvenile, the State or the court that the juvenile may not be competent to proceed in the Juvenile Court. Juvenile case records and Juvenile Court proceedings remain confidential unless the Juvenile Court proceedings resume after the juvenile is found competent.

This bill, which had been voted but not yet reported out of committee, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1967      *Resolve, Authorizing the Establishment of Prosecutorial Districts in  
Downeast Maine***

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUELL W MOORE M		

This resolve requires the county commissioners of Hancock and Washington counties to submit a referendum question to the voters at the statewide election in November 2020. The referendum question is whether the voters of each county desire to direct the county commissioners to dissolve Prosecutorial District Number 7 and develop a plan to either establish a separate prosecutorial district or join a neighboring prosecutorial district. If a majority of voters in both counties vote in favor of this referendum question, the county commissioners of both counties are directed to develop and submit a plan to the joint standing committee of the Legislature having jurisdiction over state and local government matters by February 1, 2021. If the county commissioners plan to join a neighboring prosecutorial district, the county commissioners of that neighboring district are required to submit a report to the committee stating their consent to the addition. The committee is directed to introduce legislation in the First or Second Regular Session of the 130th Legislature that implements the plans of the counties. The plans and the dissolution of Prosecutorial District Number 7 take effect January 1, 2023.

This resolve, which had been voted but not yet reported out of committee, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

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**LD 1990 An Act To Amend the Laws Governing Access To Prescription Monitoring Information**

**CARRIED OVER**

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

This bill expands the list of persons that may access prescription monitoring information to include the United States Attorney for the District of Maine in specified instances and the Attorney General under the laws governing unfair trade practices.

This bill, which had not yet been voted by the committee, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 2034 An Act Concerning Name Changes for Minors**

**CARRIED OVER**

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

This bill contains recommendations of the Family Law Advisory Commission.

This bill clarifies and consolidates in a single section of Maine law the process and standards for changing the names of adults and minors. The current process to change the name of an adult is for the adult to file a petition in the Probate Court in the county where the adult lives, except when an adult is petitioning to change that adult's name pursuant to a divorce proceeding, and this bill does not change that. This bill provides that a parent or guardian of a minor may file a name change petition for the minor in the Probate Court in the county in which the minor lives, unless the District Court has exclusive jurisdiction regarding the minor pursuant to the Maine Revised Statutes, Title 4, section 152, subsection 5-A, in which case the petition must be filed in District Court. The bill also permits a parent or guardian to request to change the minor's name as part of a proceeding concerning parentage or other parental rights with respect to the minor in the District Court. A separate petition is not required in these cases.

This bill requires the parent or legal guardian who requests a name change for the minor in District Court to provide notice pursuant to the applicable rules of procedure to any other parent, any guardian and any person or agency with legal custody of the minor and to the minor if the minor is 14 years of age or older. The court must provide an opportunity for those entitled to notice to be heard and may change the name of the minor if the court finds that the change is in the best interest of the minor.

Because this bill consolidates the provisions governing the process for change of name, except in the case of annulment, divorce or adoption, it revises the provision in the Maine Parentage Act providing for change of name of a minor on determination of parentage.

This bill, which had been voted but not yet reported out of committee, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

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**LD 2038      An Act To Ensure the Safety of State Employees By Allowing Disclosure of Certain Information in Limited Circumstances      CARRIED OVER**

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

This bill amends the records confidentiality statute within the Child and Family Services and Child Protection Act to ensure that information may be disclosed to a social media service when necessary to report, investigate or remove a threat or serious intimidation attempt against an employee of the Department of Health and Human Services, an employee of the Attorney General's Office or an employee of the court.

This bill, which had been voted but not yet reported out of committee, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 2039      An Act To Provide for Judicial Review in Compliance with the Federal Legislation Known as the Family First Prevention Services Act      CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MADIGAN C	OTP-AM	H-700

In order to claim federal reimbursement for the cost of a child's placement in a residential care facility under the federal legislation known as the Family First Prevention Services Act, this bill adds definitions to the Child and Family Services and Child Protection Act and creates a statutory requirement for a court hearing within 60 days of a child's placement in a qualified residential treatment program within a residential care facility. Additionally, this bill ensures that regular reviews of a child's placement in a qualified residential treatment program are conducted by the court.

**Committee Amendment "A" (H-700)**

This amendment adds an appropriations and allocations section.

This bill was carried over on the Special Appropriations Table to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 2040      An Act To Eliminate the Requirement That Municipalities Retain Paper Copies of Certain Vital Statistics Records      PUBLIC 611**

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

This bill eliminates municipal paper record retention requirements for maintaining death disposition permits and requires those permits to be maintained in the electronic death registration system. A copy of a permit must be made available to a member of the public upon a request made to the municipal clerk.

**Enacted Law Summary**

Public Law 2019, chapter 611 eliminates municipal paper record retention requirements for maintaining death disposition permits and requires those permits to be maintained in the electronic death registration system. A copy

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of a permit must be made available to a member of the public upon a request made to the municipal clerk.

**LD 2041      An Act To Allow Access to and Ensure the Confidentiality of Records of Child Advocacy Centers      ONTP**

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

This bill allows confidential information related to services provided by a child advocacy center to be disclosed to a court if the court finds the information may be necessary for the determination of an issue before the court. If the court determines the information is necessary for the resolution of the issue, the bill authorizes the court to issue a protective order allowing the counsel of record and the clients of the counsel of record to review the information.

**LD 2079      An Act To Implement the Recommendations of the Family Law Advisory Commission Concerning Adoption and Minor Guardianship      PUBLIC 664**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM ONTP	H-758

This bill was reported by the committee pursuant to Joint Rule 353 and then referred back to the committee for processing in the normal course. This bill implements the recommendations of the Family Law Advisory Commission as submitted to the Joint Standing Committee on Judiciary on December 1, 2019, pursuant to Public Law 2019, chapter 417, Part A, section 111.

Part A addresses the consent to an adoption by a minor adoptee and the person or agency having legal custody or guardianship of a minor adoptee. It also eliminates the ambiguity in the statute regarding whether the Department of Health and Human Services may consent to more than one petitioner by explicitly allowing the department to consent to more than one petitioner if the department concludes that multiple petitioners could each provide a suitable adoptive home for the child. Part A amends the Adoption Act (Title 18-C, Article 9 of the Maine Revised Statutes) to lower the age of a minor's consent to the minor's adoption from 14 years of age to 12 years of age. Currently, a child 12 years of age or older must consent to the child's adoption by a permanency guardian.

Part B addresses the termination of parental rights in the context of adoption.

Part C addresses post-adoption contact rights for siblings separated by adoption. It requires the court to provide notice of an adoption to any sibling of the child who has visitation or contact with the child under Title 22, section 4068. Part C also amends the Adoption Act to authorize an adoption court to order post-adoption sibling contact for adoptees who lived with a sibling for two or more years if such contact would be in the adoptee's and sibling's best interests and each sibling's parent, guardian or custodian has consented to the order. This language permits certain rights in Title 22, section 4068 to be extended potentially to any child separated from siblings by adoption, not only those in the child protection system.

Part D addresses adoptions from permanency guardianship. The parental consent requirement that is now in Title 22, section 4038-E, subsection 8, paragraph B is retained but amended to provide that the adoption petition must be filed and adjudicated in accordance with the Adoption Act. It clarifies that a permanency guardian may not seek an order terminating the parental rights of a parent as part of a petition to adopt the child. With this change, if a parent whose rights have not been terminated does not consent to the adoption, the adoption cannot proceed so long as the permanency guardianship is in place.

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Part D amends the permanency guardianship provisions to clearly state that the appointment terminates when the child is no longer a minor or upon the minor's death or adoption.

Part E addresses post-guardianship contact for former guardians and minors. It gives courts an additional tool to mitigate or avoid harm or unnecessary trauma to a minor who has a strong relationship with the minor's guardian by providing some rights of contact between the former guardian and the minor after the guardianship is terminated. The language also makes clear that a court terminating a guardianship has jurisdiction to enter an order and that the court has continuing jurisdiction unless a different court has exclusive jurisdiction under the so-called Home Court Act.

### **Committee Amendment "A" (H-758)**

This amendment is the majority report of the committee. It clarifies that when the parent of a child is petitioning with that parent's spouse to adopt the child as a couple, often referred to as a stepparent adoption, the court is required to make findings about the background and qualities of the prospective adoptive parent, also referred to as the stepparent, and not the person who is already the child's parent.

This amendment strikes all of Part C of the bill, which proposes post-adoption contact for siblings separated by adoption.

### **Enacted Law Summary**

Public Law 2019, chapter 664 implements the recommendations of the Family Law Advisory Commission as submitted to the Joint Standing Committee on Judiciary on December 1, 2019, pursuant to Public Law 2019, chapter 417, Part A, section 111.

Part A addresses the consent to an adoption by a minor adoptee and the person or agency having legal custody or guardianship of a minor adoptee. It amends the statute to make clear that courts are to take a bifurcated approach to the adoption proceeding if a petitioner is challenging the lack of consent from the person or agency, such as the Department of Health and Human Services. This change ensures that the court resolves the question of whether the person or agency unreasonably withheld its consent before the court makes findings regarding the requirements for the adoption itself, such as those set out in the Maine Revised Statutes, Title 18-C, section 9-308. The changes clarify that the court may alter the order of presentation of evidence if the person or agency has facts that the petitioner would need to include to prove the petitioner's contention that the person or agency unreasonably withheld its consent. Part A enables a court to require the person or agency to present its reasons for withholding consent and the facts supporting the decision before the petitioner presents evidence while the petitioner retains the burden of proof on the question of the person's or agency's alleged unreasonableness.

Part A amends the factors a court must consider when reviewing the reasonableness of an agency's withholding of consent to include a new factor: whether the agency granted consent to another petitioner who was previously approved by the agency or the court as the child's permanency placement.

Part A eliminates the ambiguity in the statute regarding whether the Department of Health and Human Services may consent to more than one petitioner by explicitly allowing the department to consent to more than one petitioner if the department concludes that multiple petitioners could each provide a suitable adoptive home for the child. The language gives the court authority to request the department to provide information and to make recommendations regarding the petitioners.

Part A amends the Adoption Act (Title 18-C, Article 9 of the Maine Revised Statutes) to lower the age of a minor's consent to the minor's adoption from 14 years of age to 12 years of age. Currently, a child 12 years of age or older must consent to the child's adoption by a permanency guardian.

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Part B addresses the termination of parental rights in the context of adoption. The Adoption Act permits an adoption petitioner to file a petition to terminate the parental rights of the child's parent if that parent does not consent to the adoption or join the petition. The termination of parental rights standard in Title 18-C, section 9-204, subsection 3 is consistent with the Title 22 standard used in child protection cases, except that it does not include the language regarding the parent's failure to make a good faith effort to follow a reunification plan. Such plans are features of child protection matters but not adoption proceedings. The Adoption Act instead permits the court to consider the extent to which the parent had opportunities to rehabilitate and to reunify with the child, including actions by the child's other parent to foster or to interfere with a relationship between the parent and child or services provided by public or nonprofit agencies. This recent change to the termination of parental rights standard, however, does not entirely address the concerns about private termination of parental rights noted by the Law Court in *Adoption of Isabelle T.*, 2017 ME 220, a stepparent adoption case in which a child's mother and stepfather successfully petitioned to terminate the parental rights of the child's father. The Law Court vacated the termination and emphasized the importance of considering the merits of the adoption petitioner who would be added as a parent as part of the best interests determination when ruling on a petition to terminate parental rights. Part B includes language expressly requiring courts terminating parental rights to make specific written findings. Title 18-C, section 9-204 is amended to require that the findings address the background and qualities of the prospective adoptive parent. In addition, Part B requires a court to consider the parent's attempts to reunify or maintain a relationship with a child as part of its analysis of the parent's alleged unfitness. Finally, Part B revises the consent to termination provision to make clear that a judge's explanation of the effects of a termination order must be provided to the parent prior to the parent's execution of the consent.

Part C addresses adoptions from permanency guardianship. The parental consent requirement that is now in Title 22, section 4038-E, subsection 8, paragraph B is retained but amended to provide that the adoption petition must be filed and adjudicated in accordance with the Adoption Act. It clarifies that a permanency guardian may not seek an order terminating the parental rights of a parent as part of a petition to adopt the child. With this change, if a parent whose rights have not been terminated does not consent to the adoption, the adoption cannot proceed so long as the permanency guardianship is in place.

Part C amends the permanency guardianship provisions to clearly state that the appointment terminates when the child is no longer a minor or upon the minor's death or adoption.

Part D addresses post-guardianship contact for former guardians and minors. It gives courts an additional tool to mitigate or avoid harm or unnecessary trauma to a minor who has a strong relationship with the minor's guardian by providing some rights of contact between the former guardian and the minor after the guardianship is terminated. Specifically, the new provision permits a court, on timely motion of a parent or guardian, to order, at the time of the termination of the guardianship or the expiration of any transitional arrangement, rights of communication or contact, including overnight visitation, between a minor and the former guardian after the termination of the guardianship. The court may award such rights only if the parent and guardian consent or the court finds by clear and convincing evidence that the order is necessary to avoid a likelihood of harm to the minor resulting from severing the legal relationship with the former guardian; would not significantly interfere with any parent-child relationship or with the parent's rightful authority over the minor; and is in the best interest of the minor due to the existing relationship between the minor and the former guardian because the former guardian was a primary caregiver and custodian of the minor for a significant period of time. The court is required to give due consideration to the specific objections of the parent to the entry of an order and to determine whether ordering a period of transitional arrangements is sufficient to mitigate harm to the minor. The language also makes clear that a court terminating a guardianship has jurisdiction to enter an order and that the court has continuing jurisdiction unless a different court has exclusive jurisdiction under the so-called Home Court Act.

*Joint Standing Committee on Judiciary*

**LD 2086      Resolve, To Create a Criminal Records Review Committee**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R CLAXTON N		

This resolve establishes the Criminal Records Review Committee.

This bill, which had been voted but not yet reported out of committee, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 2094      An Act To Implement the Recommendations of the Task Force on  
Changes to the Maine Indian Claims Settlement Implementing Act**

**CARRIED OVER**

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

This bill was reported by the committee pursuant to Joint Order 2019, H.P. 1307, and then referred back to the committee for processing in the normal course. This bill implements the consensus recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act, referred to in this summary as "the task force." The report was released on January 14, 2020 and is available online at <http://legislature.maine.gov/maine-indian-claims-tf>.

This bill does not address the relationship between the State and the Aroostook Band of Micmacs because that issue was specifically set aside by the task force.

In this summary, the Maine Revised Statutes, Title 30, chapter 601, which is titled An Act to Implement the Maine Indian Claims Settlement, enacted by Public Law 1979, chapter 732, is referred to as the "Maine Implementing Act" and the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, formerly codified at 25 United States Code, Sections 1721 to 1735, is referred to as "the Settlement Act." The federal Settlement Act ratified the Maine Implementing Act, and both have an effective date of October 10, 1980.

The task force voted, in Consensus Recommendation #1, to establish an enhanced process for tribal-state collaboration and consultation as well as a process for alternative dispute resolution, but left the contours of those processes to be developed by stakeholders. The bill therefore does not contain language implementing this recommendation, but the task force anticipated that language putting the recommendation into effect would be developed during the legislative process and would be added by amendment or in additional legislation.

The Settlement Act, in Section 6(e)(1), provides federal consent for the State and the Passamaquoddy Tribe and the Penobscot Nation to agree to amend the Maine Implementing Act with respect to the enforcement or application of civil, criminal or regulatory laws of the tribes and the State within their respective jurisdictions, the allocation or determination of governmental responsibility of the State and the tribe or nation over specified subject matters or specified geographical areas, or both, including provisions for concurrent jurisdiction between the State and the tribe or nation, and the allocation of jurisdiction between tribal courts and state courts. The federal law also provides, in Section 6(e)(2), federal consent for the State and the Houlton Band of Maliseet Indians to execute agreements regarding the jurisdiction of the State over lands owned by or held in trust for the benefit of the band or its members. The task force, whose members represented the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, the Aroostook Band of Micmacs and the State, exercised the opportunity offered in the Settlement Act to reconsider the relationship between the Passamaquoddy Tribe, the Penobscot Nation, the

## *Joint Standing Committee on Judiciary*

Houlton Band of Maliseet Indians and the State. The statutory changes contained in this bill are the result of a collaborative effort to determine how best to focus efforts to develop mutually beneficial solutions that allow all of the State's citizenry, including its tribal citizenry, to prosper and progress.

The purpose of the reconsideration and rewriting of the Maine Implementing Act is to establish that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians enjoy the rights, privileges, powers, duties and immunities similar to those of other federally recognized Indian tribes within the United States. This is a significant change from the current law, which provides the State with significant authority over Indian affairs. To carry out this significant change, many provisions of chapter 601 are repealed or amended to recognize that federal Indian law governs the rights, privileges, powers, duties and immunities of the tribe, nation and band.

Under the bill, except as otherwise specified in the Maine Implementing Act, federal Indian law applies with regard to the rights, privileges, powers, duties and immunities of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians. "Federal Indian law" is the body of law that applies to almost all federally recognized Indian tribes, nations, bands or other groups in the United States and describes their relationship with the Federal Government and the states. Federal Indian law is defined in this bill as the United States Constitution and all federal statutes and regulations and subsequent amendments thereto or judicial interpretations thereof, relating to the rights, privileges, powers, duties and immunities of federally recognized Indian tribes within the United States, except those federally recognized Indian tribes subject to United States Public Law 83-280 or a specific treaty or settlement act. This definition explicitly recognizes that federal Indian law is not static, but evolves as federal laws are passed and amended and as federal courts interpret the relevant statutes and regulations and their application to federally recognized Indian tribes, nations, bands and other groups. Federal Indian law addresses myriad subjects, including criminal adjudicatory and legislative jurisdiction, civil adjudicatory and legislative jurisdiction, taxation, the right to sue and be sued, hunting and fishing rights, regulation of natural resources and land use, gaming and many other topics.

This bill newly defines the term "tribal lands" to describe the lands of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians over which the tribes may exert jurisdiction as described in Consensus Recommendation #2. Passamaquoddy Tribal Lands consist of the lands designated as Passamaquoddy reservation lands as well as all lands held in trust for the Passamaquoddy Tribe by the United States Secretary of the Interior. Penobscot Tribal Lands include the Penobscot reservation and all lands held in trust for the Penobscot Nation by the United States Secretary of the Interior. Houlton Band Tribal Lands include all lands held in trust by the United States Secretary of the Interior for the Houlton Band of Maliseet Indians. In addition, for each tribe, nation and band, tribal lands include land that, after the effective date of this legislation, is acquired and held in trust by the United States Secretary of the Interior for the respective tribe, nation or band.

The Maine Implementing Act currently limits the criminal jurisdiction of the Passamaquoddy Tribal Court and the Penobscot Nation Tribal Court as well as the potential criminal jurisdiction of the Houlton Band of Maliseet Indians Tribal Court. Federal Indian law provides broader jurisdiction for tribal courts. This bill repeals most of the state limitations and recognizes and adopts most of federal Indian law, including the Indian Civil Rights Act of 1968, the Tribal Law and Order Act of 2010 and other federal laws addressing tribal court jurisdiction and the obligations of the tribal courts. This bill amends the Maine Implementing Act to make equal the exclusive criminal jurisdiction of the Passamaquoddy Tribal Court and the Houlton Band of Maliseet Indians Tribal Court with the exclusive criminal jurisdiction of the Penobscot Nation Tribal Court over offenses committed by Indian defendants against Indian victims or for which there is no victim. This bill further amends the Maine Implementing Act to recognize the criminal jurisdiction of the Passamaquoddy Tribal Court, the Penobscot Nation Tribal Court and the Houlton Band Tribal Court to impose the maximum penalties other tribal courts are authorized to impose under the federal Tribal Law and Order Act of 2010, as long as the due process protections required by that Act are observed. This bill does not include the provisions regarding tribal court concurrent jurisdiction over criminal offenses committed by non-Indian defendants against Indian victims authorized under the Federal Violence Against Women Reauthorization Act of 2013 because this jurisdiction is addressed in the 129th Legislature's L.D. 766, An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority to Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013.

## *Joint Standing Committee on Judiciary*

This bill amends state law to recognize tribal court jurisdiction, concurrent with the state courts, over offenses committed on tribal lands by Indian defendants against non-Indian victims, subject to the maximum penalty provisions and due process requirements of the federal Tribal Law and Order Act of 2010.

This bill retains current law providing that the exclusive authority of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to exercise criminal jurisdiction over Indians on tribal lands remains at the discretion of the tribe, nation and band. To the extent that the tribe, nation or band does not exercise, or terminates its exercise of, exclusive criminal jurisdiction, the State has exclusive jurisdiction over those matters.

Unlike current law, this bill recognizes each tribal government's authority to define all crimes and juvenile offenses committed on its tribal lands over which the tribal court has exclusive or concurrent criminal jurisdiction. This bill, however, retains the authority of the State to define all crimes and juvenile offenses committed on tribal lands over which state courts have exclusive or concurrent jurisdiction.

This bill repeals the language of the Maine Implementing Act regarding the procedure for members of the Passamaquoddy Tribe or the Penobscot Nation living in their respective Indian territory to petition for an extended reservation in relation to tribal court jurisdiction. Those provisions are no longer necessary because this bill ensures that the law as amended recognizes the tribe's and nation's tribal court jurisdiction to cover the entirety of their tribal lands, not just reservations.

This bill recognizes federal Indian law regarding the exclusive jurisdiction of tribes to regulate fishing and hunting by tribal citizens of all federally recognized Indian tribes on tribal lands. This bill amends the Maine Implementing Act to restore and affirm the exclusive jurisdiction of tribes to regulate fishing and hunting by nontribal citizens on tribal lands, but does not cede to the State any authority of the Maine Indian Tribal-State Commission to regulate fishing on boundary waters under current law.

This bill relinquishes the State's jurisdiction with respect to the regulation of fishing and hunting by both tribal and nontribal citizens on tribal lands. The State, solely for conservation purposes, may regulate tribal members engaged in such activities off tribal lands to the extent permitted under general principles of federal Indian law and in a manner consistent with reserved tribal treaty rights.

This bill amends state law to recognize and adopt federal Indian law providing that: tribes have exclusive jurisdiction to tax tribal members and tribal entities on their respective tribal lands, including entities owned by a tribe or tribal member; tribes, tribal members and tribal entities are not subject to state and local sales taxation on tribal lands; tribal members who live on their respective tribal lands are not subject to state income tax for income earned on their respective tribal lands; tribal lands are not subject to state and local real property tax; tribes have concurrent jurisdiction to tax nonmembers on tribal lands; and the State and local governments have concurrent jurisdiction to tax nonmembers on tribal lands.

This bill amends state law to restore to the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians the exclusive authority to exercise civil legislative jurisdiction over Indians and non-Indians on tribal lands. To the extent that the tribe, nation or band does not exercise, or terminates its exercise of, exclusive civil legislative jurisdiction, the State has exclusive jurisdiction over those matters.

This bill amends state law to restore to the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians the exclusive authority to exercise civil adjudicatory jurisdiction over Indians and non-Indians on tribal lands. To the extent that the tribe, nation or band does not exercise, or terminates its exercise of, exclusive civil adjudicatory jurisdiction, the State has exclusive jurisdiction over those matters.

This bill amends state law to explicitly provide that, for the purposes of the Settlement Act, Section 6(h), any law or



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treasurers, managers or administrators, assessors and code enforcement officers must also complete training.

3. It clarifies that school superintendents, assistant superintendents and school board members are required to complete training.

This bill, which had been voted but not yet reported out of committee, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 2103     *An Act To Implement the Recommendations of the Right To Know  
Advisory Committee Regarding Public Records Exceptions***

**PUBLIC 667**

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This bill was reported by the committee pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6 and then referred back to committee for processing in the normal course. This bill implements the recommendations of the Right To Know Advisory Committee concerning public records exceptions as included in Appendix C of the Fourteenth Annual Report of the Right To Know Advisory Committee.

Part A implements statutory changes initially recommended by the Right To Know Advisory Committee in 2019 pursuant to its responsibility to review existing public records exceptions and included in L.D. 1511, "An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions."

Part B implements recommendations identified by the Right To Know Advisory Committee in 2019.

Part B directs the Office of Policy and Legal Analysis, in consultation with the Office of the Revisor of Statutes and the Right To Know Advisory Committee, to examine inconsistencies in statutory language related to the designation of information and records as confidential or not subject to public disclosure and to recommend standardized language for use in drafting statutes to clearly delineate what information is confidential and the circumstances under which that information may appropriately be released. The Office of Policy and Legal Analysis is required to submit a report with its recommendations to the Right To Know Advisory Committee on or before September 1, 2021.

### **Enacted Law Summary**

Public Law 2019, chapter 667 implements the recommendations of the Right To Know Advisory Committee concerning public records exceptions as included in Appendix C of the Fourteenth Annual Report of the Right To Know Advisory Committee.

Part A implements statutory changes initially recommended by the Right To Know Advisory Committee in 2019 pursuant to its responsibility to review existing public records exceptions and included in L.D. 1511, "An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions."

Part A eliminates specific protection under the Freedom of Access Act for social security numbers in the context of constituent communications because social security numbers are designated as not public records for all contexts.

Current law provides that personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services is not a public record as long as the municipality has adopted an ordinance that protects the information from disclosure. Part A removes the

## *Joint Standing Committee on Judiciary*

requirement that a municipality adopt such an ordinance in order to protect the information concerning minors.

Current law provides a public records exception for records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software. Part A amends the provision to specifically include records or information maintained to ensure government operations and technology continuity and to facilitate disaster recovery.

Part A amends the statutes governing the confidentiality of the working papers of the Office of Program Evaluation and Government Accountability to clarify that the working papers, whether in the possession of the office or an entity with which the office director has contracted, remain confidential even after the report is released to the public. It removes duplicative language that is already captured in the definition of working papers.

Part A amends the Maine Human Rights Act to update and clarify the language describing medical history and information about disabilities, as well as to update a reference to employee health and wellness programs.

Part B implements recommendations identified by the Right To Know Advisory Committee in 2019. Four sections of Part B amend specific exceptions to the definition of public records in the Freedom of Access Act.

1. Part B amends the existing public records exceptions to clarify that records, working papers and interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System are confidential when the subject matter is confidential or otherwise protected from disclosure by statute, other law, legal precedent or privilege recognized by the courts of this State.
2. Part B amends the public records exceptions to clarify that working papers become public records once distributed in a public meeting of an advisory organization and not when distributed by an individual member of an advisory organization.
3. Part B amends the public records exceptions to provide that personal contact information concerning public employees protected as confidential includes a person's username, password and uniform resource locator for a personal social media account.
4. Part B amends the public records exceptions to make records related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare subject to public disclosure after that discharge.

Part B amends the public records exceptions under the laws governing the Office of the State Auditor to permit the State Auditor to share confidential information related to a complaint alleging fraud, waste, inefficiency or abuse with a department or agency that is the subject of a complaint to ensure that the department or agency can respond appropriately to the complaint. The department or agency is required to maintain the confidentiality of any information related to a complaint furnished by the State Auditor.

Part B amends the public records exceptions in the laws governing the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council to remove references to a particular segment or segments of the milk industry.

Part B directs the Office of Policy and Legal Analysis, in consultation with the Office of the Revisor of Statutes and the Right To Know Advisory Committee, to examine inconsistencies in statutory language related to the designation of information and records as confidential or not subject to public disclosure and to recommend standardized language for use in drafting statutes to clearly delineate what information is confidential and the circumstances under which that information may appropriately be released. The Office of Policy and Legal Analysis is required to submit a report with its recommendations to the Right To Know Advisory Committee on or before September 1, 2021.

*Joint Standing Committee on Judiciary*

**LD 2118    An Act To Establish an Enhanced Process for Tribal-State Collaboration  
and Consultation and To Develop a Process for Alternative Dispute  
Resolution**

**CARRIED OVER**

Sponsor(s)

Committee Report

Amendments Adopted

This bill was reported by the committee pursuant to Joint Order, H.P. 1307, and referred back to the committee for processing in the normal course. This bill reflects the recommendations of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to establish a formal government-to-government consultation process between the tribes and the State.

The bill establishes a requirement that state agencies consult with the tribes prior to engaging in any proposed action that may directly affect the tribes. It requires state agencies to request tribal consultation in writing and to provide the tribes with at least 30 days to respond and to agree to or decline consultation. If a state agency is required by outside legal factors to act earlier, the State must provide as much time for consultation as possible. If a tribe agrees to consultation, the State must provide preliminary drafts or proposals to the tribe and engage in meaningful and timely in-person consultation. The State must explain in writing to the tribe how it has or has not addressed tribal concerns.

The bill requires tribal consent prior to proposed actions that could cause substantial or irreparable harm to tribal communities or tribal rights, including but not limited to reserved treaty rights and other tribal rights in land, water and other natural resources.

The bill authorizes the State to enter into cooperative agreements with federally recognized Indian tribes within the State to facilitate cross-jurisdictional cooperation and the delivery of government services and to avoid disputes.

The bill establishes the annual assembly of the Governor and chiefs of each tribe and the biennial legislative assembly to discuss issues relating to the relationship between the State and the tribes.

The bill directs the Maine Indian Tribal-State Commission to report, by November 15, 2020, on its study of alternative dispute resolution options and best practices for facilitating resolution of tribal-state disputes. It authorizes the joint standing committee of the Legislature having jurisdiction over judiciary matters to report out legislation based on the recommendations of the commission.

Finally, the bill directs the Governor to work with the chiefs of each tribe to establish the Bicentennial Accord in order to institutionalize general principles governing tribal-state relations. It directs the Maine Indian Tribal-State Commission to provide logistical support and technical assistance in developing the Bicentennial Accord.

This bill, which had not yet been voted by the committee, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 2153    An Act To Establish an Accidental Drug Overdose Death Review Panel**

**CARRIED OVER**

Sponsor(s)

Committee Report

Amendments Adopted

CARPENTER M

*Joint Standing Committee on Judiciary*

This bill establishes the Accidental Drug Overdose Death Review Panel to review a select number of deaths caused by accidental drug overdoses and to recommend to state, county and local agencies methods of preventing deaths as the result of accidental drug overdoses including modification or enactment of laws, rules, policies and procedures.

This bill, which had been referred to committee but not yet heard, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 2160      An Act Relating To the Statute of Limitations for Injuries or Harm      CARRIED OVER**  
**Resulting from Perfluoroalkyl and Polyfluoroalkyl Substances**

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

This bill provides that an action arising out of any harm or injury caused by a perfluoroalkyl or polyfluoroalkyl substance must be commenced within six years after the plaintiff discovers or should have discovered such harm or injury.

This bill, which had been referred to committee but not yet heard, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

*Joint Standing Committee on Judiciary*

**SUBJECT INDEX**

**Attorney General & District Attorneys**

**Not Enacted**

LD 1967	Resolve, Authorizing the Establishment of Prosecutorial Districts in Downeast Maine	CARRIED OVER
LD 1990	An Act To Amend the Laws Governing Access to Prescription Monitoring Information	CARRIED OVER
LD 2153	An Act To Establish an Accidental Drug Overdose Death Review Panel	CARRIED OVER

**Child Abuse and Child Protection**

**Not Enacted**

LD 1554	Resolve, Establishing a Commission To Reform Child Protective Services	CARRIED OVER
LD 2038	An Act To Ensure the Safety of State Employees By Allowing Disclosure of Certain Information in Limited Circumstances	CARRIED OVER
LD 2039	An Act To Provide for Judicial Review in Compliance with the Federal Legislation Known as the Family First Prevention Services Act	CARRIED OVER

**Civil Actions**

**Enacted**

LD 1053	An Act To Reduce the Duration of Execution Liens	PUBLIC 622
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**Not Enacted**

LD 194	An Act To Allow the Reduction of a MaineCare Lien	CARRIED OVER
LD 698	An Act To Authorize Maine Courts To Award Attorney's Fees and Costs to Citizens Who Prevail in Civil Litigation against the Executive Branch	CARRIED OVER
LD 2160	An Act Relating To the Statute of Limitations for Injuries or Harm Resulting from Perfluoroalkyl and Polyfluoroalkyl Substances	CARRIED OVER

## *Constitutional Issues*

### Not Enacted

LD 433      RESOLUTION, Proposing an Amendment to the Constitution of Maine To Explicitly Prohibit Discrimination Based on the Sex of an Individual      CARRIED OVER

## *Courts*

### Not Enacted

LD 657      An Act To Reorganize the Probate Courts      CARRIED OVER

LD 1073      Resolve, To Implement an Intensive Drug Treatment Court Pilot Project in the Midcoast      CARRIED OVER

LD 1380      An Act To Transfer the Violations Bureau from the Courts to the Office of the Secretary of State      ONTP

## *Courts and Court Procedure*

### Enacted

LD 1442      An Act To Provide for Court-appointed Advocates for Justice in Animal Cruelty Cases      PUBLIC 547

LD 1953      An Act Regarding Driver's License Suspensions for Nondriving Violations      PUBLIC 603

### Not Enacted

LD 1759      An Act Regarding the Electronic Data and Court Records Filed in the Electronic Case Management System of the Supreme Judicial Court      ONTP

## *Criminal Law and Procedure*

### Not Enacted

LD 279      An Act To Raise Juror Pay to \$50 per Day      CARRIED OVER

LD 302      An Act To Amend the Laws Governing Post-conviction Review in Order To Facilitate the Fair Hearing of All Evidence in Each Case Involving a Claim of Innocence      CARRIED OVER

LD 1061      An Act To Establish a Fund To Compensate Unjustly Incarcerated Persons      CARRIED OVER

LD 1421      An Act To Amend the Maine Bail Code      CARRIED OVER

## **Criminal Records and Juvenile Records**

### **Not Enacted**

LD 776	An Act Regarding Post-judgement Motion by a Person Seeking To Satisfy the Prerequisites for Obtaining Special Restrictions on the Dissemination and Use of Criminal History Record Information for Certain Criminal Convictions	CARRIED OVER
LD 1670	An Act To Limit the Dissemination of Juvenile Records	ONTP
LD 1897	An Act To Authorize the Expungement of Records of Nonviolent Crimes	ONTP
LD 2086	Resolve, To Create a Criminal Records Review Committee	CARRIED OVER

## **Domestic Violence/Protection From Abuse**

### **Enacted**

LD 1865	An Act To Amend the Protection from Abuse Laws Concerning Consent Agreements	PUBLIC 574
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## **Family Law, General**

### **Enacted**

LD 545	An Act To Ban Child Marriage	PUBLIC 535
LD 2079	An Act To Implement Recommendations of the Family Law Advisory Commission Concerning Adoption and Minor Guardianship	PUBLIC 664

### **Not Enacted**

LD 1291	An Act To Update the Maine Parentage Act	CARRIED OVER
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## **Freedom of Access/Confidentiality/Privacy**

### **Enacted**

LD 2040	An Act To Eliminate the Requirement That Municipalities Retain Paper Copies of Certain Vital Statistics Records	PUBLIC 611
LD 2103	An Act To Implement the Recommendations of the Right To Know Advisory Committee Regarding Public Records Exceptions	PUBLIC 667

### **Not Enacted**

LD 639	An Act To Protect Study Privacy	CARRIED OVER
LD 1575	An Act To Improve the Freedom of Access Laws of Maine	CARRIED OVER

LD 1960	An Act To Protect Communications between Bargaining Agents and Bargaining Unit Members	ONTP
LD 2041	An Act To Allow Access to and Ensure the Confidentiality of Records of Child Advocacy Centers	ONTP
LD 2102	An Act To Implement the Recommendations of the Right To Know Advisory Committee	CARRIED OVER

### *Human Rights and Medical Rights*

#### Enacted

LD 1294	Resolve, Directing the Maine Human Rights Commission To Implement a Pilot Program To Investigate and Report on Incidents of Harassment Due to Housing Status, Lack of Employment and Other Issues	RESOLVE 113
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#### Not Enacted

LD 759	An Act To Increase Efficiency in Enforcement of the Maine Human Rights Act	CARRIED OVER
LD 1703	An Act To Improve Consistency in the Maine Human Rights Act and Related Statutes	CARRIED OVER

### *Legal Services*

#### Enacted

LD 1859	An Act To Increase Access to Justice and Maine's Rural Lawyer Workforce by Expanding Student Attorney Practice Opportunities	PUBLIC 597
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#### Not Enacted

LD 1067	An Act To Promote Fairness and Efficiency in the Delivery of Indigent Legal Services	CARRIED OVER
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### *Minors and Juveniles*

#### Not Enacted

LD 1684	An Act To Clarify the Right to Counsel for Juveniles and Improve Due Process for Juveniles	CARRIED OVER
LD 1964	An Act To Limit Access to Juvenile Case Records and Protect the Confidentiality of Juvenile History Record Information	CARRIED OVER

**Miscellaneous**

**Enacted**

LD 793      **An Act To Improve Accountability of Opioid Manufacturers**      **PUBLIC 536**

**Not Enacted**

LD 1229      **Resolve, To Establish the Committee To Study and Develop Recommendations To Address Guardianship Challenges That Delay Patient Discharges from Hospitals**      **CARRIED OVER**

**Name Changes**

**Enacted**

LD 1771      **An Act To Amend the Law Governing Name Changes**      **PUBLIC 629**

**Not Enacted**

LD 2034      **An Act Concerning Name Changes for Minors**      **CARRIED OVER**

**Pretrial Justice and Bail**

**Not Enacted**

LD 182      **An Act To Amend the Maine Bail Code Regarding the Financial Capacity of a Defendant To Post Bond**      **CARRIED OVER**

**Probate Code and Trust Code**

**Enacted**

LD 1863      **An Act To Amend the Maine Uniform Probate Code**      **PUBLIC 598**

**Not Enacted**

LD 82      **An Act To Determine the Necessity for a Public Guardian or Conservator Bond**      **CARRIED OVER**

LD 531      **An Act To Provide Counsel for a Person Who Is the Subject of an Adult Guardianship, Conservatorship or Other Protective Arrangement Proceeding**      **CARRIED OVER**

LD 1021      **An Act To Require the Maine Commission on Indigent Legal Services To Pay Court-appointed Attorneys for Certain Probate Court Cases**      **CARRIED OVER**

LD 1862      **Resolve, Authorizing the Probate and Trust Law Advisory Commission To Submit Trust Decanting Legislation**      **CARRIED OVER**

**Real Property, Property Rights and Eminent Domain**

**Enacted**

LD 1963      **An Act To Preserve the Value of Abandoned Properties by Allowing Entry by Mortgagees**      **PUBLIC 647**

**Not Enacted**

LD 89      **An Act To Impose Requirements on the Rental of Residential Property That Has Been Used in the Manufacture of Methamphetamine**      **CARRIED OVER**

LD 1426      **An Act To Increase Protections for Land Installment Contracts**      **CARRIED OVER**

LD 1598      **An Act To Define the Responsibilities of Property Owners for the Maintenance and Repair of Private Roads**      **CARRIED OVER**

**Tribal-State Relations**

**Enacted**

LD 766      **An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013**      **PUBLIC 621**

**Not Enacted**

LD 573      **An Act To Extend Time Limits for Placing Land in Trust Status under the Maine Indian Claims Settlement**      **CARRIED OVER**

LD 680      **An Act To Clarify the Intent of the Federal Maine Indian Claims Settlement Act of 1980 To Ensure the Federal Principle of Inherent Tribal Sovereignty**      **CARRIED OVER**

LD 954      **An Act To Rescind An Act To Implement the Maine Indian Claims Settlement**      **CARRIED OVER**

LD 1392      **An act To Establish A Formal Tribal Consultation Process with the State**      **CARRIED OVER**

LD 1490      **An Act To Enhance Tribal-State Collaboration in the Enforcement of Child Support**      **CARRIED OVER**

LD 1653      **Resolve, Establishing the Conference To Address and Improve Relations between Maine Indian Tribes and the Legislature**      **CARRIED OVER**

LD 1709      **An Act To Amend the Act To Implement the Maine Indian Claims Settlement**      **CARRIED OVER**

LD 1907      **An Act To Restore to the Penobscot Nation and Passamaquoddy Tribe the Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010**      **CARRIED OVER**

<b>LD 2094</b>	<b>An Act To Implement the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act</b>	<b>CARRIED OVER</b>
<b>LD 2118</b>	<b>An Act To Establish an Enhanced Process for Tribal-State Collaboration and Consultation and To Develop a Process for Alternative Dispute Resolution</b>	<b>CARRIED OVER</b>

**Unclaimed Property**

**Enacted**

<b>LD 1612</b>	<b>An Act Regarding the Presumption of Abandonment of Gift Obligations</b>	<b>PUBLIC 553</b>
<b>LD 1864</b>	<b>An Act To Correct the Maine Revised Unclaimed Property Act to Reflect Recent Changes</b>	<b>PUBLIC 571 EMERGENCY</b>