

STATE OF MAINE  
125<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON JUDICIARY**

July 2011

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*Joint Standing Committee on Judiciary*

**LD 3 An Act To Clarify Joint Tenancy Reinstatement**

**PUBLIC 41**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASTINGS	OTP-AM	S-22

This bill clarifies that a deed held in joint tenancy taken by a taxing or assessing authority by foreclosure that is conveyed back to the owners reinstates the joint tenancy that existed at the time of the taking.

**Committee Amendment "A" (S-22)**

The amendment clarifies that the bill's language regarding conveyances applies to conveyances made on or after January 1, 2012.

**Enacted Law Summary**

Public Law 2011, chapter 41 clarifies that a deed held in joint tenancy taken by a taxing or assessing authority by foreclosure that is conveyed back to the owners reinstates the joint tenancy that existed at the time of the taking.

Chapter 41 applies to conveyances made on or after January 1, 2012.

**LD 10 An Act To Clarify the Method of Creating or Severing Joint Tenancy**

**PUBLIC 4**

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

This bill revises the joint tenancy statute to provide that the intent to create a joint tenancy may be stated by appropriate language anywhere in a deed. The bill also provides that a deed to an owner or an owner and another or others is effective and not a nullity. It also provides specific examples of deed language appropriate to create a joint tenancy and provides that a joint tenancy may be severed by a deed to an owner or to an owner and another or others.

**Enacted Law Summary**

Public Law 2011, chapter 4 revises the joint tenancy statute to provide that the intent to create a joint tenancy may be stated by appropriate language anywhere in a deed. It provides that a deed to an owner or an owner and another or others is effective and not a nullity. It also provides specific examples of deed language appropriate to create a joint tenancy and provides that a joint tenancy may be severed by a deed to an owner or to an owner and another or others.

*Joint Standing Committee on Judiciary*

**LD 31 An Act To Protect the Safety of Maine Children by Requiring the Express Consent of a Legal Guardian To Dispense Prescription Medication to a Minor**

**MAJORITY  
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CEBRA SNOWE-MELLO	ONTP MAJ OTP MIN	

This bill prohibits dispensing prescription drugs to a minor without express consent from the minor's parent or legal guardian unless the minor is living independently of parental or guardian support, is or was married, is or was serving in the Armed Forces of the United States or has been legally emancipated.

**LD 39 An Act Related to Family Law Magistrates**

**PUBLIC 3**

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

This bill removes language prohibiting magistrates of the Family Division of District Court from wearing black robes.

**Enacted Law Summary**

Public Law 2011, chapter 3 removes language prohibiting magistrates of the Family Division of District Court from wearing black robes.

**LD 51 An Act Regarding Access to Sexually Explicit Material**

**PUBLIC 39**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL HOBBINS	OTP-AM	H-56

This bill creates new guidelines for access to sexually explicit material in a criminal investigation or proceeding.

**Committee Amendment "A" (H-56)**

This amendment allows access to the sexually explicit materials by an agent of the defendant's attorney.

**Enacted Law Summary**

Public Law 2011, chapter 39 creates new guidelines for access to sexually explicit material in a criminal investigation or proceeding. This material is now accessible to defendants pursuant to Maine Rules of Criminal Procedure, Rule 16, which permits copying or photographing. Chapter 39 authorizes reasonable access for inspection of the sexually explicit material but prohibits any reproduction of the material and requires that it be inspected in a facility under the control of the attorney for the State. The custody, control and care of the material

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must remain with the attorney for the State or the court. Chapter 39 is consistent with the federal requirements of custody and treatment of evidence of child pornography pursuant to the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

**LD 58      An Act To Prohibit Enforcement of the Federal Patient Protection and Affordable Care Act      ONTP**

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

This bill expresses the findings of the Legislature that the federal Patient Protection and Affordable Care Act, signed into law by President Barack Obama on March 23, 2010, is in violation of the United States Constitution, Amendment X and, as such, is considered null and void in Maine. This bill prohibits a federal or state official, agent or employee from enforcing the Patient Protection and Affordable Care Act, or any other statute, law, rule, regulation or order made in connection with that Act. Violation by a federal official is a Class C crime, punishable by up to 5 years in prison and a fine of up to \$5,000. Violation by a state official is a Class D crime, punishable by less than one year in jail and a fine of up to \$2,000. The bill also allows a civil cause of action.

See also LD 1233, referred to the Joint Standing Committee on Insurance and Financial Services.

**LD 90      An Act Regarding Graphic Images Displayed with the Intention of Interfering with Civil Rights      ONTP**

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

This bill amends the Maine Civil Rights Act to limit the size of images of human or fetal remains that may be displayed by any person with the intention of interfering with the exercise of constitutional or other legal rights.

**LD 95      An Act To Repeal the Restriction on Serving or Executing Civil Process on Sunday      PUBLIC 32**

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

This bill repeals the restriction on serving or executing civil process on Sunday.

**Enacted Law Summary**

Public Law 2011, chapter 32 repeals the restriction on serving or executing civil process on Sunday.

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**LD 115 An Act To Amend the Laws Governing Child Support Enforcement**

**MAJORITY  
(ONTP) REPORT**

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

This bill provides an exemption from attachment and execution for any debtor's interest in funds or assets that are necessary for the debtor to pay child support. It also provides that child support orders have priority over previously filed orders that are not made for the purpose of enforcing or paying child support.

**Committee Amendment "A" (H-309)**

This amendment is the minority report. It removes the provision in the bill that provides for an exemption from attachment and execution of the debtor's interest in assets that are necessary to pay existing or anticipated child support obligations. Instead, this amendment provides an exemption from attachment and execution of a debtor's interest in funds or assets that are necessary for the debtor to pay past-due child support pursuant to a support order except for funds or assets that are attached or executed upon to pay a contractual security interest, including but not limited to a mortgage or a tax lien or a mechanics lien preserved and enforced under the Maine Revised Statutes, Title 10, sections 3451 and 3452. It also provides that a support order does not take priority over an action to collect or enforce tax debts or a contractual security interest.

This amendment was not adopted.

**LD 116 An Act To Require a 24-hour Waiting Period prior to an Abortion**

**MAJORITY  
(ONTP) REPORT**

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

This bill requires a 24-hour waiting period prior to an abortion except in the case of a medical emergency. See also LD 914 and LD 1457.

**Committee Amendment "A" (H-469)**

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

This amendment provides a pregnant minor or a pregnant woman the option of receiving the required information and counseling from a physician other than the physician who performs the abortion. The informed written consent must still be obtained at least 24 hours before the abortion is performed, as required in the bill.

This amendment was not adopted.

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**LD 138      An Act To Allow a Nonresident To Perform a Single Marriage Ceremony**

**PUBLIC 111**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRIGGS PATRICK	OTP-AM	H-134

This bill permits a nonresident notary public or justice of the peace to apply for and receive temporary authority to solemnize a particular marriage in this State.

This bill was referred from the Joint Standing Committee on State and Local Government.

**Committee Amendment "A" (H-134)**

The amendment revises the bill to allow the Department of Health and Human Services, Office of Data, Research and Vital Statistics to issue a temporary registration certificate to solemnize a marriage to an individual who is a nonresident of this State and who is authorized to solemnize marriages in the individual's state of residence. This amendment also updates language concerning marriage licenses.

**Enacted Law Summary**

Public Law 2011, chapter 111 allows the Department of Health and Human Services, Office of Data, Research and Vital Statistics to issue a temporary registration certificate to solemnize a marriage to an individual who is a nonresident of this State and who is authorized to solemnize marriages in the individual's state of residence. The individual must apply for the temporary registration certificate by providing evidence of that authority, such as a copy of a commission certificate, as well as a copy of the statute that provides the authority. The temporary registration certificate expires 90 days after issuance or upon the individual's signing the marriage license, whichever occurs first.

**LD 145      An Act To Protect Homeowners Subject to Foreclosure by Requiring the Foreclosing Entity To Provide the Court with Original Documents**

**Carried Over**

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

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

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

**Committee Amendment "A" (H-425)**

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

This amendment requires the plaintiff to produce the original note and all the endorsements associated with the note

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

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

If the plaintiff is not in possession of the note but the Uniform Commercial Code provisions on lost, stolen or destroyed instruments apply, the plaintiff's provision of a sworn affidavit pursuant to the Maine Revised Statutes, Title 11, section 3-1309 to the defendant constitutes sufficient compliance with the production requirements.

If the plaintiff claims the note is an electronic transferable record, as defined in the Uniform Electronic Transactions Act, the plaintiff's furnishing of a sworn affidavit setting forth the proof required pursuant to Title 10, section 9416, subsection 6 constitutes sufficient compliance with the production requirements.

This amendment was not adopted.

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

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

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

This amendment was not adopted.

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

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

This amendment was not adopted.

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P. 1190.

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**LD 165 An Act To Require Divorce Actions To Go to Mediation**

**ONTP**

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

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

It proposes to require all contested divorce cases to be resolved through mediation, instead of in the courts, unless there are extenuating circumstances, such as abuse.

**LD 170 An Act To Extend the Maximum Time Period for Powers of Attorney for Minors and Incapacitated Persons**

**PUBLIC 43**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS COURTNEY	OTP-AM	H-57

This bill extends the maximum time period for a power of attorney for a minor or incapacitated person from 6 to 12 months and authorizes the Probate Court, in issuing, modifying or terminating an order of guardianship of a minor, to include in the order transition arrangements as determined to be in the best interest of the child.

**Committee Amendment "A" (H-57)**

This amendment clarifies that orders providing for transitional arrangements may include, but are not limited to, rights of contact, housing, counseling or rehabilitation.

**Enacted Law Summary**

Public Law 2011, chapter 43 extends the maximum time period for a power of attorney for a minor or incapacitated person from 6 to 12 months and authorizes the Probate Court, in issuing, modifying or terminating an order of guardianship of a minor, to include in the order transition arrangements as determined to be in the best interest of the child. Orders providing for transitional arrangements may include, but are not limited to, rights of contact, housing, counseling or rehabilitation.

**LD 194 An Act To Make Permanent the Direction of Fines Derived from Tribal Law Enforcement Activities to the Passamaquoddy Tribe and the Penobscot Nation**

**PUBLIC 426**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
Soctomah	OTP-AM	H-375

This bill removes the provision of law that repeals the laws that direct fines derived from tribal law enforcement activities to the Passamaquoddy Tribe and the Penobscot Nation.

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### **Committee Amendment "A" (H-375)**

This amendment incorporates a fiscal note.

### **Enacted Law Summary**

Public Law 2011, chapter 426 removes the provision of law that repeals the laws that direct fines derived from tribal law enforcement activities to the Passamaquoddy Tribe and the Penobscot Nation.

## **LD 202      An Act To Modify Child Support Enforcement Procedures**

**PUBLIC 34**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS ROSEN R	OTP-AM	H-45

This bill amends several child support enforcement provisions. It:

1. Eliminates the 6-month limitation on a court order for a child support obligor to seek employment;
2. Changes the child support guidelines from requiring that the support obligation of a nonprimary care provider who earns less than the federal poverty guidelines may not exceed 10% of the nonprimary care provider's weekly gross income for each child for whom support is awarded to requiring that the support obligation may not exceed 10% of the nonprimary care provider's weekly gross income regardless of the number of children; and
3. Limits the assignment of child support received by a recipient of public assistance to only that support that accrues during the period that the recipient receives public assistance.

### **Committee Amendment "A" (H-45)**

This amendment reinstates the limitation, which was removed in the bill, on a court order for a child support obligor, expanding the limitation from 6 months as in current law to one year.

### **Enacted Law Summary**

Public Law 2011, chapter 34 does the following:

1. It changes the child support guidelines from requiring that the support obligation of a nonprimary care provider who earns less than the federal poverty guidelines may not exceed 10% of the nonprimary care provider's weekly gross income for each child for whom support is awarded to requiring that the support obligation may not exceed 10% of the nonprimary care provider's weekly gross income regardless of the number of children;
2. It limits the assignment of child support received by a recipient of public assistance to only that support that accrues during the period that the recipient receives public assistance; and
3. It expands the 6-month limitation on a court order for a child support obligor to seek employment to one year.

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**LD 237      An Act To Make Public the Names of Members of Limited Liability Companies      ONTP**

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

This bill requires the Secretary of State to make the names of members of a limited liability company available to the public.

See also LD 983.

**LD 247      An Act To Amend the Gift Card Laws      PUBLIC 433**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRESCOTT RECTOR	OTP-AM	H-442

This bill changes from 2 years to 5 years the time after which a gift obligation or stored-value card is deemed abandoned. It also removes the provision that a merchant remit 60% of the unclaimed amount to the Treasurer of State, resulting in the required remittance of 100% of the unclaimed amount.

**Committee Amendment "A" (H-442)**

This amendment replaces the bill.

This amendment provides that gift obligations and stored-value cards sold on or after December 31, 2011 are not presumed abandoned unless a single issuer sells at least \$250,000 in face value of gift obligations and stored-value cards in the previous calendar year. Sales of gift obligations and stored-value cards are considered sales by a single issuer if the sales were by businesses that operate either under common ownership or control with another business or businesses in the State or as franchised outlets of a parent business.

This amendment also reformats the provision on gift obligations and stored-value cards to make it more readable, but makes no other changes to current law.

**Enacted Law Summary**

Public Law 2011, chapter 433 provides that gift obligations and stored-value cards sold on or after December 31, 2011 are not presumed abandoned unless a single issuer sells at least \$250,000 in face value of gift obligations and stored-value cards in the previous calendar year. Sales of gift obligations and stored-value cards are considered sales by a single issuer if the sales were by businesses that operate either under common ownership or control with another business or businesses in the State or as franchised outlets of a parent business.

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**LD 281 An Act To Create a 6-year Statute of Limitations for Environmental Violations**

**PUBLIC 350**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO	ONTP MAJ OTP-AM MIN	S-239

This bill requires enforcement actions for violations of environmental laws to be brought by the Department of Environmental Protection or the Attorney General within five years of the date of the violation.

**Committee Amendment "A" (S-239)**

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

This amendment establishes a 6-year statute of limitations for actions for civil penalties for violations of laws administered by the Department of Environmental Protection. An action must be commenced within 6 years of when the Commissioner of Environmental Protection or the Attorney General discovers the act or omission giving rise to the violation or identifies the party responsible for the violation, or of the last day of a continuing violation, whichever occurs latest.

This amendment specifies when an enforcement action is commenced includes language to ensure that the effect of commencing an action is to toll the statute of limitations.

**Enacted Law Summary**

Public Law 2011, chapter 350 establishes a 6-year statute of limitations for actions for civil penalties for violations of laws administered by the Department of Environmental Protection. An action must be commenced within 6 years of when the Commissioner of Environmental Protection or the Attorney General discovers the act or omission giving rise to the violation or identifies the party responsible for the violation, or of the last day of a continuing violation, whichever occurs latest.

Chapter 350 specifies that an enforcement action is commenced when any of the following occurs:

1. The commissioner proposes an administrative consent agreement in writing to the violator;
2. The commissioner schedules an enforcement hearing on the alleged violation;
3. The commissioner, with the prior approval of the Attorney General, files a complaint in District Court; and
4. The Attorney General files a complaint in District Court or Superior Court.

Commencing an action tolls the statute of limitations.

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**LD 317      An Act To Improve Efficiency and Compliance within the Judicial System      ONTP**

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

This bill provides that if a fine imposed for a traffic infraction is paid in full and received by the judicial branch's violations bureau within the 20-day period immediately after the Violation Summons and Complaint has been served, the fine must be reduced by 10%.

**LD 318      An Act To Require Consideration of Higher Education for Children during Divorce Deliberations      ONTP**

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

This bill requires that divorce decrees and other orders establishing parental rights and responsibilities include an explanation of how the costs of postsecondary education will be addressed. The explanation is required for orders pertaining to children when the children reach grade 11 in secondary school.

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

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

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

This bill was referred from the Joint Standing Committee on Education and Cultural Affairs.

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P. 1190.

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**LD 325      Resolve, To Examine the Representation of Families by Nonattorney Advocates at Special Education Due Process Hearings      VETO SUSTAINED**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KENT ALFOND	OTP-AM	H-376

This bill permits persons who are not attorneys to represent parents and other parties in proceedings before the Department of Education relating to children with disabilities.

**Committee Amendment "A" (H-376)**

This amendment replaces the bill with a resolve directing the Maine Developmental Disabilities Council to convene a working group to study the issue of nonattorney advocates representing families at special education due process hearings. The working group will report to the Joint Standing Committee on Judiciary by January 31, 2012. The committee may report out a bill to implement matters relating to the report.

**LD 335      An Act To Allow Foresters, Soil Scientists and Geologists To Use Mechanics Liens      ONTP**

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

This bill adds foresters, soil scientists and geologists to the list of people who can place a lien on the property of another for nonpayment of services.

**LD 373      An Act To Provide for Equal Rights of Appeal for the State and Defendants Concerning Post-judgment DNA Analysis      PUBLIC 230**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J JACKSON	OTP-AM	H-269

This bill allows the defendant as well as the State to appeal a court decision to grant or deny the defendant a new trial pursuant to a post-judgment conviction motion for DNA analysis.

**Committee Amendment "A" (H-269)**

This amendment replaces the bill. It adds a new section to provide a discretionary appeal opportunity for the State when the court grants a motion to order DNA analysis. Currently, the State has no right to appeal that decision.

This amendment replaces the language in the bill to clarify that both the State and an aggrieved person have an appeal as a matter of right from a court decision to grant or deny a new trial based on the DNA analysis results.

**Enacted Law Summary**

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Public Law 2011, chapter 230 provides that both the State and an aggrieved person have an appeal as a matter of right from a court decision to grant or deny a new trial based on DNA analysis results. Chapter 230 also provides a discretionary appeal opportunity for the State when the court grants a motion to order DNA analysis. Currently, the State has no right to appeal that decision.

**LD 374 An Act To Change the Method of Calculation of Child Support**

**ONTP**

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

This bill excludes from gross income for the purpose of calculating child support amounts withheld or paid for social security or Medicare taxes.

**LD 380 An Act To Enhance Enforcement of Civil Orders of Arrest**

**PUBLIC 177**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOULTON SHERMAN	OTP-AM	H-241

This bill provides that a court may issue a bench warrant when an individual fails to appear for a disclosure or contempt hearing concerning the enforcement of a money judgment after having given a personal recognizance bond to do so.

This bill also clarifies that a bench warrant may issue even if the individual is separately charged with a Class E crime for failing to appear in court after having given a personal recognizance bond to do so.

**Committee Amendment "A" (H-241)**

This amendment replaces the bill, removing the provisions permitting the court to issue a bench warrant and instead providing alternative relief.

This amendment provides alternative relief if a debtor fails to appear for a hearing after having given a personal recognizance bond to do so. The alternative relief consists of an order to the Department of Labor to provide the judgment creditor with the name and address of the debtor's employer, or a further civil order of arrest that does not permit the sheriff to obtain a personal recognizance bond from the debtor, or both. The Department of Labor may charge a reasonable fee for providing the information pursuant to the court order. The amendment also specifies how an order to the Department of Labor is served and the information required in the personal recognizance bond that a debtor may sign.

**Enacted Law Summary**

Public Law 2011, chapter 177 provides alternative relief if a debtor fails to appear for a disclosure hearing after having given a personal recognizance bond to do so. The alternative relief consists of an order to the Department of Labor to provide the judgment creditor with the name and address of the debtor's employer, or a further civil order of arrest that does not permit the sheriff to obtain a personal recognizance bond from the debtor, or both. The Department of Labor may charge a reasonable fee for providing the information pursuant to the court order. Chapter

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177 also specifies how an order to the Department of Labor is served and the information required in the personal recognizance bond that a debtor may sign.

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

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

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

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P. 1190.

**LD 427      An Act To Extend the Same Privileges to the Wesget Sipu - Fish River Tribe as Are Extended to Other Maine Indian Tribes      ONTP**

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

This bill extends to members of the group known as the Wesget Sipu - Fish River Tribe the privilege of eligibility for any tuition waiver offered to Native Americans by the University of Maine System, the Maine Maritime Academy or the Maine Community College System.

**LD 448      An Act To Allow a Valid Claim against a Dissolved Corporation      MAJORITY (ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DILL C BLISS	ONTP MAJ OTP MIN	

This bill allows a claim against a dissolved corporation when there is liability insurance available.

*Joint Standing Committee on Judiciary*

**LD 482      An Act To Amend the Laws Dealing with Limitation of Actions**

**PUBLIC 124**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT HILL	OTP-AM	H-192

The bill establishes a period of 20 years as the statute of limitations for an action on a breach of warranty covenants.

**Committee Amendment "A" (H-192)**

This amendment replaces the bill. It establishes a period of 20 years as the statute of limitations for an action on a breach of covenants in any instrument conveying real estate.

This amendment satisfies the due process requirements of the Constitution of Maine by providing an opportunity for persons with a vested interest in an expired 6-year limitations period, generally, the grantors of unsealed deeds executed between 1991 and 2005, to retain the benefit of that period by providing notice to current owners and requiring a prompt declaratory judgment action if the limitations period is disputed.

**Enacted Law Summary**

Public Law 2011, chapter 124 establishes a period of 20 years as the statute of limitations for an action on a breach of covenants in any instrument conveying real estate. It satisfies the due process requirements of the Constitution of Maine by providing an opportunity for persons with a vested interest in an expired 6-year limitations period, generally, the grantors of unsealed deeds executed between 1991 and 2005, to retain the benefit of that period by providing notice to current owners and requiring a prompt declaratory judgment action if the limitations period is disputed.

**LD 486      An Act To Clarify the Uniform Arbitration Act**

**PUBLIC 80**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT BLISS	OTP-AM	H-94

This bill clarifies that the Uniform Arbitration Act confers jurisdiction in either the District Court or the Superior Court.

This amendment makes changes consistent with the original intent of the bill.

This amendment amends the listing of the jurisdiction of the District Court to include actions under the Uniform Arbitration Act.

This amendment amends the Uniform Arbitration Act to clarify jurisdiction and venue under the Uniform Arbitration Act.

**Enacted Law Summary**

Public Law 2011, chapter 80 provides that both the District Court and the Superior Court have jurisdiction under the Uniform Arbitration Act. It also clarifies venue under the Uniform Arbitration Act.

*Joint Standing Committee on Judiciary*

**LD 511**      **Resolve, Directing the Department of Health and Human Services To  
Examine the Issue of Revocation of Licenses for Nonpayment of Child  
Support**      **ONTP**

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

This resolve directs the Commissioner of Health and Human Services and the Department of Health and Human Services to examine the issue of the revocation of drivers licenses for the nonpayment of child support and report to the Joint Standing Committee on Health and Human Services no later than December 7, 2011.

**LD 526**      **An Act To Protect Persons Who Have Buildings on Leased Land**      **ONTP**

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

This bill provides that a person who purchases land on which there is a building owned by another person who leases the land may not change the prior uses of the land without the consent of the lessee. It provides that a person who purchases land that is subject to a lease may not increase existing rent by more than 10% a year. It also provides that a person who violates one of these requirements is liable to the lessee for the fair market value of the lessee's property. The bill provides that the provision is retroactive to January 1, 2010.

**LD 532**      **An Act To Update the Maine Uniform Trust Code**      **PUBLIC 42**

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

This bill contains recommendations of the Probate and Trust Law Advisory Commission pursuant to the Maine Revised Statutes, Title 18-A, section 1-803, subsection 2. The bill amends the Maine Uniform Trust Code, which is based on the Uniform Trust Code approved by the National Conference of Commissioners on Uniform State Laws, and includes Maine Comments to explain the amendments.

**Enacted Law Summary**

Public Law 2011, chapter 42 contains recommendations of the Probate and Trust Law Advisory Commission pursuant to the Maine Revised Statutes, Title 18-A, section 1-803, subsection 2. It amends the Maine Uniform Trust Code, which is based on the Uniform Trust Code approved by the National Conference of Commissioners on Uniform State Laws, and includes Maine Comments to explain the amendments.

Chapter 42 adds a definition of "current beneficiary" to the Maine Uniform Trust Code. It amends the Maine Uniform Trust Code to distinguish between the rights of current beneficiaries and qualified beneficiaries in general

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with regard to their right to receive information about trusts.

Chapter 42 amends the Maine Uniform Trust Code with language added to the approved draft of the Uniform Trust Code by the National Conference of Commissioners on Uniform State Laws after the Maine Uniform Trust Code was adopted to clarify that a creditor may reach or compel distribution of the interest of a beneficiary who also serves as trustee when the trustee's discretion to make distributions for the trustee's own benefit is limited by an ascertainable standard, but only to the extent the interest would be subject to the creditor's claim were the beneficiary not acting as trustee or cotrustee.

Chapter 42 repeals and replaces Title 18-B, section 506 to insert a new subsection 1, retaining the current language as a new subsection 2 to clarify that the term "mandatory distribution" is to be understood in its traditional sense. Chapter 42 adds a new subsection to Title 18-B, section 813 to clarify that whether or not a settlor has capacity to revoke a trust, the trustee's duties to inform and report under section 813 are owed exclusively to the settlor.

**LD 551      An Act To Allow a Member, Manager or Authorized Employee of a Limited Liability Company To Appear for That Company in an Action for Eviction      MAJORITY (ONTP) REPORT**

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

This bill allows a member, manager or authorized employee of a limited liability company who is not an attorney to appear in court for that company in an action for eviction.

**LD 573      An Act To Protect the Civil Rights of Citizens      MAJORITY (ONTP) REPORT**

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

This bill mirrors federal law in allowing a person to bring a civil action for a violation of the person's constitutional rights against a person acting under the color of a statute, ordinance, rule, regulation, custom or usage of the State or a political subdivision of the State.

**LD 585      An Act To Amend the Child Custody Laws      ONTP**

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

This bill prohibits an order for parental rights and responsibilities from being modified or terminated if the custodial parent is absent from the State because the parent is in the National Guard or the Reserves of the United States

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Armed Forces under an order to active duty for more than 30 days. The bill also prohibits a court from considering absence due to active duty service with the National Guard or the Reserves of the United States Armed Forces the sole factor in determining parental rights and responsibilities with respect to a minor.

**LD 593      Resolve, Regarding Legislative Review of Chapter 3: Eligibility Requirements for Specialized Case Types, a Major Substantive Rule of the Maine Commission on Indigent Legal Services      RESOLVE 22 EMERGENCY**

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

This resolve provides for legislative review of Chapter 3: Eligibility Requirements for Specialized Case Types, a major substantive rule of the Maine Commission on Indigent Legal Services.

**Enacted Law Summary**

Resolve 2011, chapter 22 provides for legislative review of Chapter 3: Eligibility Requirements for Specialized Case Types, a major substantive rule of the Maine Commission on Indigent Legal Services.

Resolve 2011, chapter 22 was finally passed as an emergency measure effective April 20, 2011.

**LD 602      An Act To Clarify the Method of Appealing Decisions of the Executive Director of the Maine Commission on Indigent Legal Services      PUBLIC 141**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLISS	OTP-AM	S-93

This bill amends current law relating to the Maine Commission on Indigent Legal Services to state specifically which decisions of the executive director must be subject to an appeal process for attorneys aggrieved by such decisions. The bill requires the commission to develop an appeal process for the commission to review decisions of the executive director, or the executive director's designee, regarding whether an attorney meets the commission's minimum eligibility requirements to receive assignments to represent indigent clients and whether an attorney meets the eligibility requirements for assignments to specialized case types, whether an attorney previously found eligible for such assignments is found to be no longer eligible and whether to grant or withhold a waiver of such eligibility requirements.

The bill also provides that a quorum of the commission must review decisions on whether the eligibility requirements are met, but that a panel of 2 members of the commission is authorized to review decisions regarding waiver of those requirements.

**Committee Amendment "A" (S-93)**

This amendment revises the administrative appeal process proposed in the bill for some decisions of the executive director, or the executive director's designee, of the Maine Commission on Indigent Legal Services.

This amendment provides that all three categories of decisions made by the executive director or the executive director's designee are appealed to the full commission. All commission decisions, including decisions on these

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appeals, constitute final agency action for purposes of review under the Maine Administrative Procedure Act. In addition, the amendment clarifies that all decisions of the executive director or the executive director's designee, other than the 3 categories of decisions appealable to the commission, constitute final agency action.

### **Enacted Law Summary**

Public Law 2011, chapter 141 amends current law relating to the Maine Commission on Indigent Legal Services to state specifically which decisions of the executive director must be subject to an appeal process for attorneys aggrieved by such decisions. Chapter 141 provides that three categories of decisions made by the executive director or the executive director's designee are appealable to the full commission. All commission decisions, including decisions on these appeals, constitute final agency action for purposes of review under the Maine Administrative Procedure Act. In addition, chapter 141 clarifies that all decisions of the executive director or the executive director's designee, other than the three categories of decisions appealable to the commission, constitute final agency action.

### **LD 609      An Act To Declare Certain Records of the Maine Commission on Indigent Legal Services Confidential**

**PUBLIC 260**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLISS	OTP-AM	S-179

This bill makes certain records in the possession of the Maine Commission on Indigent Legal Services confidential.

### **Committee Amendment "A" (S-179)**

This amendment clarifies the bill in 3 ways.

1. It provides that although individual client information is confidential as proposed in the bill, the names of criminal defendants are not confidential for all adult defendants and for juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime.
2. It provides that requests for funds become public after a case is completed.
3. It also provides that information obtained or gathered by the Maine Commission on Indigent Legal Services when performing an evaluation of an attorney is confidential but may be shared with the attorney who is the subject of the evaluation.

### **Enacted Law Summary**

Public Law 2011, chapter 260 makes certain records in the possession of the Maine Commission on Indigent Legal Services confidential. Specifically, the following are confidential:

1. Individual client information, except that the names of criminal defendants are not confidential for all adult defendants and for juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime;
2. Information that is subject to the attorney-client privilege or that is defined as confidential under the Maine Rules of Professional Conduct;
3. Personal contact information of commission-rostered attorneys, members of the commission and commission staff;

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- 4. Requests for funds for expert or investigative assistance until the case is completed; and
- 5. Information obtained or gathered by the commission when performing an evaluation of an attorney, although the information may be shared with the attorney who is the subject of the evaluation.

**LD 616      An Act To Clarify Landowner Liability for Environmental Damage      ONTP**  
**Caused by Others**

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

This bill limits the responsibility for landowners for environmental violations caused by recreational or harvesting activities.

**LD 621      An Act To Clarify Adverse Possession      ONTP**

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

This bill amends the adverse possession law to clarify in statute that certain actions taken near property lines do not support a claim for adverse possession. De minimus nonstructural encroachments and maintenance across boundary lines are deemed to be permissive and not adverse, therefore defeating a claim that the actions show possession and use of the property as actual, open, notorious, hostile, under claim of right, continuous and exclusive for a period of at least 20 years. Examples of de minimus nonstructural encroachments include but are not limited to fences, hedges, shrubbery, plantings, sheds and nonstructural walls.

This bill is modeled on New York Laws of 2008, chapter 269, codified as Real Property Actions and Proceedings Law, section 543.

**LD 651      An Act To Improve Tribal-State Relations      Carried Over**

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

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

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P.

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1190.

**LD 655 An Act To Provide Tribal Representation in the Senate**

**ONTP**

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

This bill establishes a Senate Tribal Representative to represent the Penobscot Indian Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs at the Legislature. The position rotates among the nation, tribe and bands every 2 years as determined by agreement among the nation, tribe and bands. The position is established beginning in the 126th Legislature. The Senate Tribal Representative must be furnished a seat on the floor of the Senate, must be granted the privilege of speaking on the floor of the Senate on pending legislation and must be appointed to sit as a nonvoting member of a joint standing committee. The Senate Tribal Representative may be granted other rights and privileges approved by the Senate. The Senate Tribal Representative serves for 2 years and is entitled to receive a salary and allowances equal to the salary and allowances received by members of the Senate.

**LD 665 An Act To Limit Claims of Exempt Property**

**ONTP**

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

This bill specifies that claims of exempt property may not be used to protect against certain debts that would be excepted from discharge under federal bankruptcy law or judgments based on torts involving other than ordinary negligence on the part of the debtor.

**LD 744 An Act To Amend the Definition of "Service Animal" To Conform with Federal Law**

**PUBLIC 369**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY ROSEN R	OTP-AM	H-506

This bill changes the definition of "service animal" in the Maine Human Rights Act to conform with federal regulations adopted under the Americans with Disabilities Act.

See also LD 785.

**Committee Amendment "A" (H-506)**

This amendment replaces the bill.

The bill contains the definition of "service animal" as adopted by the United States Department of Justice in

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regulations to implement the Americans with Disabilities Act of 1990. This definition is inconsistent with the definition of "service animal" adopted in regulations by the United States Department of Housing and Urban Development.

This amendment retains the current definition of "service animal" in the Maine Human Rights Act, which applies in fair housing circumstances, and adds the definition of "service animal" from the bill, which is specific to dogs, in public accommodations circumstances.

This amendment updates cross-references in the animal welfare laws in the Maine Revised Statutes, Title 7 and Title 17, the model white cane law in Title 17 and the miscellaneous crimes chapter in Title 17.

### **Enacted Law Summary**

Public Law 2011, chapter 369 retains the current definition of "service animal" in the Maine Human Rights Act, which applies in fair housing circumstances, and adds the definition of "service animal" based on the federal ADA regulations, which is specific to dogs, for use in public accommodations circumstances.

Chapter 369 updates cross-references in the animal welfare laws in the Maine Revised Statutes, Title 7 and Title 17, the model white cane law in Title 17 and the miscellaneous crimes chapter in Title 17.

### **LD 746      An Act Regarding the Consent of Minors for Mental Health and Substance Abuse Aid**

**MAJORITY  
(ONTP) REPORT**

Sponsor(s)

CHASE  
COLLINS

Committee Report

ONTP MAJ  
OTP MIN

Amendments Adopted

This bill provides conditions under which a minor may legally consent to treatment of abuse of alcohol or drugs or for emotional or psychological problems without the consent of the minor's parents or legal guardians.

### **LD 785      An Act Relating to Identification of Service Animals**

**ONTP**

Sponsor(s)

CRAY  
SHERMAN

Committee Report

ONTP

Amendments Adopted

This bill clarifies the responsibility of the Department of Agriculture, Food and Rural Resources to provide municipalities with tags to identify dogs licensed as service dogs. It allows the owner or manager of a public place to request verification when a person accompanied by an animal is entering or within that place.

See also LD 744.

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**LD 787 An Act To Establish an Elder Victims Restitution Fund**

**PUBLIC 241**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BURNS DC MASON	OTP-AM	H-343

This bill establishes the Elder Victims Restitution Fund to compensate elder victims of financial crimes who are entitled to receive restitution from offenders but who are not receiving that restitution. The fund receives money from estates passing to the State of people who received restitution. The bill provides that a person who has been convicted of a crime of which a decedent was a victim may not benefit under the will of that decedent or by virtue of property held jointly with the decedent or contracts concerning the decedent to the extent of restitution owed by the person who has been convicted of a crime.

**Committee Amendment "A" (H-343)**

This amendment deletes language referencing the purposes of the new Elder Victims Restitution Fund created in the bill to avoid inconsistencies in terms and purposes.

This amendment strikes out the section amending the provision of existing law that prohibits killers from benefiting from their crimes against their victims. Instead, this amendment adds a new section to the Probate Code that prohibits a person convicted of any crime of which the decedent was a victim from benefiting to the extent the convicted person owes restitution to the decedent.

This amendment removes the provision of the bill that authorizes the Elder Victims Restitution Fund to accept private donations, federal funds and state funds designated by law.

**Enacted Law Summary**

Public Law 2011, chapter 241 establishes the Elder Victims Restitution Fund to compensate elder victims of financial crimes who are entitled to receive restitution from offenders but who are not receiving that restitution. The fund receives money from estates passing to the State of people who received restitution.

Chapter 241 prohibits a person convicted of any crime of which the decedent was a victim from benefiting to the extent the convicted person owes restitution to the decedent.

**LD 791 An Act Regarding the Construction of New Court Facilities**

**ONTP**

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

This bill requires that the designs for new court facilities must adequately address the space needs of the district attorneys and the attorneys providing indigent legal services. The Chief Justice or the Chief Justice's designee shall ensure that a statewide organization of district attorneys and the Maine Commission on Indigent Legal Services are consulted when designing the new facilities.

***Joint Standing Committee on Judiciary***

**LD 811      An Act Relating to Child Support and Visitation by Noncustodial Parents      ONTP**

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

This bill provides that the Department of Health and Human Services is prohibited from issuing an income withholding order against the wages of the financially responsible parent when the parent with whom the child lives either is in violation of a parental rights and responsibilities order requiring contact between the child and the financially responsible parent or, if no order concerning contact is in effect, does not permit contact between the financially responsible parent and the child. If reasonable grounds exist for refusing contact, the prohibition is void.

**LD 824      An Act To Amend Certain Provisions Regarding Evidence under the Law Concerning Post-judgment DNA Analysis      ONTP**

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

This bill requires, in a post-judgment conviction motion for DNA analysis, that:

1. If the State fails to preserve biological evidence or evidence of a DNA analysis gathered on or after January 1, 1988 that is subject to a court order for new trial, then it is considered prima facie evidence favorable to the person bringing the motion;
2. For evidence gathered on or after January 1, 1988, if the results of the DNA analysis show that the person is not the source of the evidence and the DNA analysis is evidence material to the crime, there is a rebuttable presumption that the DNA subject to the analysis is from the perpetrator of the crime and the DNA analysis is admissible at a hearing on the person's motion for new trial; and
3. In a hearing in a motion for new trial, if the results of the DNA analysis is material evidence in the underlying crime, the court shall consider this evidence together with all the other evidence in the case, old and new, admitted in the hearing, likely to influence a conclusion regarding the person's guilt or innocence, when granting or denying the motion.

**LD 877      Resolve, To Streamline the Judicial Process in Maine's Courts      ONTP**

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

This resolve directs the Judicial Department to design and implement a plan to upgrade its computer system to ensure access by Maine citizens and attorneys to electronic filing and scheduling online.

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**LD 917      An Act To Protect Licensing Information Provided to the Department of Inland Fisheries and Wildlife and To Require a Review of Public Access to Other Personal Information      ONTP**

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

This bill provides that names, addresses, telephone numbers, e-mail addresses and other identifying information provided to the Department of Inland Fisheries and Wildlife for purposes of obtaining a license are not public records and directs the Right To Know Advisory Committee to review instances when public agencies maintain name of, contact information for and other personal information regarding individuals and make recommendations to the Joint Standing Committee on Judiciary regarding statutory changes necessary to protect individual personal information from disclosure if that disclosure would serve no reasonable public purpose.

**LD 924      An Act To Educate Women on the Medical Risks Associated with Abortion      MAJORITY (ONTP) REPORT**

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

The bill requires that in order to ensure that informed consent is obtained from a woman seeking an abortion, specific information must be provided both orally and in writing to a woman seeking an abortion at least 24 hours before the abortion is performed. The Department of Health and Human Services shall develop a brochure that contains required information and provide copies to physicians and make the brochure available online.

See also LD 116 and LD 1457.

**Committee Amendment "A" (H-467)**

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

This amendment adds a medical emergency exception to the requirement that a pregnant woman be provided with specific information at least 24 hours before an abortion procedure may proceed.

This amendment was not adopted.

**House Amendment "A" (H-470)**

The bill requires that a woman's attending physician provide information to the woman seeking an abortion. This amendment specifies that the information may be provided by a physician or a physician's designee.

This amendment was not adopted.

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**LD 939 An Act To Enhance Mandated Reporting and Prosecution of Elder Abuse, Neglect and Exploitation**

**PUBLIC 291**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS SHERMAN	OTP-AM	H-374

This bill modifies several provisions in the Adult Protective Services Act mandated reporting requirements to be consistent with the Child and Family Services and Child Protection Act mandated reporting requirements. Specifically, when a report must be made and by whom have been brought into alignment as appropriate. In addition, several provisions have been added to enhance prosecution of elder abuse, neglect and exploitation, including requirements that photographic evidence of abuse be secured when possible in relation to an incapacitated or dependent adult and that the Department of Health and Human Services notify the district attorney when it receives a report of suspected abuse, neglect or exploitation. The bill also clarifies that "dependent adults" includes adults who are not institutionalized but who are dependent upon others for their day-to-day care. Finally, the bill proposes to increase the penalty a court may impose for a person's failure to report elder abuse, neglect or exploitation as required under the Adult Protective Services Act.

**Committee Amendment "A" (H-374)**

This amendment deletes from the proposed list of mandated reporters municipal code enforcement officials and firefighters. The amendment also adds naturopathic doctors to the list of mandated reporters.

**Enacted Law Summary**

Public Law 2011, chapter 291 modifies several provisions in the Adult Protective Services Act mandated reporting requirements to be to expand who is a mandated reporter and when a report must be made. In addition, several provisions have been added to enhance prosecution of elder abuse, neglect and exploitation, including requirements that photographic evidence of abuse be secured when possible in relation to an incapacitated or dependent adult and that the Department of Health and Human Services notify the district attorney when it receives a report of suspected abuse, neglect or exploitation. Chapter 291 clarifies that "dependent adults" includes adults who are not institutionalized but who are dependent upon others for their day-to-day care. Chapter 291 increases the penalty a court may impose for a person's failure to report elder abuse, neglect or exploitation as required under the Adult Protective Services Act.

**LD 951 Resolve, Establishing the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts**

**RESOLVE 104**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASTINGS	OTP-AM	H-678 NASS S-213 S-334 COURTNEY

This resolve establishes the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts. The commission is directed to study the priority and timing of judicial proceedings in state courts, including, but not limited to, judicial proceedings that require priority treatment pursuant to statute. No later than December 7, 2011, the commission shall submit a report that includes its findings and recommendations, including suggested



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educational decisions made for the kinship family child; and

4. Allows a superintendent to deny enrollment of a kinship family child in the superintendent's school administrative unit if the superintendent determines that enrollment is not in the best interest of the kinship family child and provides an appeal process for the kinship parent to appeal this denial.

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P. 1190.

### **LD 983      An Act To Amend the Maine Limited Liability Company Act**

**PUBLIC 113  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST GERZOFSKY	OTP-AM	H-135

This bill makes several changes to the Maine Limited Liability Company Act, which takes effect July 1, 2011. Most of the changes are technical, but several are substantive.

#### **Committee Amendment "A" (H-135)**

This amendment makes two changes.

It clarifies the language concerning making false statements on documents executed and filed with the office of the Secretary of State to identify that such an act is the crime of unsworn falsification, which is consistent with the current limited liability company laws and the current limited liability partnership laws.

This amendment also requires the minimum disclosure on the annual report of one person who can accept service of process on the entity when the agent has resigned without providing a new service of process contact, or when the agent cannot be located. Providing the name and address of a member, manager or other authorized person to accept service of process is consistent with the Model Registered Agents Act.

#### **Enacted Law Summary**

Public Law 2011, chapter 113 makes several changes to the Maine Limited Liability Company Act, which takes effect July 1, 2011. The technical changes remove redundant language, correct cross-references, clarify definitions and make grammatical changes. Chapter 113 deletes the unnecessary inclusion of the word "domestic" when referring to limited liability companies formed in this State.

Chapter 113 makes the following substantive changes.

1. The bill amends the definition of "low-profit limited liability company" by striking all references to foreign limited liability companies. The change allows the laws of the state of organization to govern whether a foreign limited liability company is a low-profit limited liability company. The change conforms the statute to those of other states that have adopted low-profit limited liability company legislation.
2. Under the current law, the articles of organization require the organizer to designate whether the limited liability company will be a member-run limited liability company or a manager-run limited liability company. This designation establishes apparent authority for the limited liability company. If the limited liability company is a member-run entity, each of the members has authority to bind the limited liability company; if the limited liability company is manager-run, each manager has the authority to bind the limited liability company. The Maine Limited Liability Company Act, which takes effect July 1, 2011, abandons authority by designation. The certificate of

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formation under the Maine Limited Liability Company Act generally will not contain any information about authority. Further, the new provisions concerning apparent authority do not acknowledge or give any effect to designations in articles of organization filed under the current law. As a consequence, once the Maine Limited Liability Company Act takes effect, the designations in articles of organization filed under the existing law will have no significance, yet many practitioners will continue to rely on designations in filed articles of organization as though the designations mattered. To accommodate this likelihood, Title 31, section 1693, subsection 2, paragraph B provides that the designations will be treated as being included in the limited liability company's limited liability company agreement. Chapter 113 strikes language that treats the designation as part of the limited liability company agreement. In its place, chapter 113 adds provisions that treat the designation as a statement of authority. The change significantly alters apparent authority for limited liability companies formed under the existing law that have not actually filed a statement of authority pursuant to section 1542. In the absence of a statement of authority, every member, manager, president and treasurer has authority to bind the limited liability company with third parties. By treating the designation as a statement of authority, the change to section 1693, subsection 2, paragraph B limits the scope of persons having apparent authority to those designated in the filed articles. As a consequence, chapter 113 gives meaning to the designation that closely conforms to the meaning intended by the designation under the existing law, at least for purposes of apparent authority.

Chapter 113 clarifies the language concerning making false statements on documents executed and filed with the office of the Secretary of State to identify that such an act is the crime of unsworn falsification, which is consistent with the current limited liability company laws and the current limited liability partnership laws.

Chapter 113 also requires the minimum disclosure on the annual report of one person who can accept service of process on the entity when the agent has resigned without providing a new service of process contact, or when the agent cannot be located. Providing the name and address of a member, manager or other authorized person to accept service of process is consistent with the Model Registered Agents Act.

Public Law 2011, chapter 113 was enacted as an emergency measure effective July 1, 2011.

**LD 988      An Act Concerning Immunity for School Administrative Units in the Discharge of Their Responsibilities      ONTP**

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

This bill provides immunity for school administrative units providing medical services to students as authorized by state law.

**LD 1005      An Act To Clarify the Standard of Proof for Traffic Infractions      PUBLIC 156**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOULTON	OTP-AM	H-220

This bill places the burden of proof of a traffic infraction on the State and establishes a standard of clear and convincing evidence for proof of a violation.

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**Committee Amendment "A" (H-220)**

This amendment changes the bill to make the law consistent with the Maine Rules of Civil Procedure, Rule 80F, which establishes that the adjudication of a traffic infraction is based on a preponderance of the evidence. The statute is currently silent on the standard of proof. This amendment also changes the title of the bill.

**Enacted Law Summary**

Public Law 2011, chapter 156 places the burden of proof of a traffic infraction on the State and makes the law consistent with the Maine Rules of Civil Procedure, Rule 80F, which establishes that the adjudication of a traffic infraction is based on a preponderance of the evidence.

**LD 1021 An Act To Transfer Jurisdiction of Traffic Adjudications**

**MAJORITY  
(ONTP) REPORT**

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

This bill transfers the jurisdiction over traffic infractions from the District Court to the Secretary of State, effective January 1, 2014.

The Secretary of State, in consultation with the Administrative Office of the Courts, shall submit a report on the transition to the First Regular Session of the 126th Legislature.

**Committee Amendment "A" (H-588)**

This amendment is the minority report of the Joint Standing Committee on Judiciary. This amendment incorporates a fiscal note.

This amendment was not adopted.

**LD 1034 An Act To Amend the Law Regarding Comparative Negligence**

**MAJORITY  
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DILL C	ONTP MAJ OTP MIN	

Currently, the comparative negligence law prohibits recovery if the claimant is equally at fault with or more at fault than the defendant. This bill amends the law to prohibit recovery if the claimant is found to be more at fault than the defendant.

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**LD 1046    An Act To Amend the Application of the Maine Human Rights Act  
Regarding Public Accommodations**

**MAJORITY  
(ONTP) REPORT**

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

This bill provides that it is not unlawful public accommodations discrimination, in violation of the Maine Human Rights Act, for a public or private entity to restrict rest room or shower facilities that are part of public accommodations to restrict the use of single-sex facilities to members of a biological sex regardless of sexual orientation. Unless otherwise indicated, a rest room or shower facility designated for one biological sex is presumed to be restricted to that biological sex.

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

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

This amendment replaces the text of the bill to clarify that if a public or private entity restricts access to a rest room, locker room, shower facility or bathroom in a way that takes into account the legitimate privacy concerns of all members of a biological sex regardless of sexual orientation, the restriction is not unlawful public accommodations discrimination. Stating that a restriction is not unlawful public accommodations discrimination creates a defense to a complaint under the Maine Human Rights Act.

This amendment deletes the language contained in the bill that provides that a rest room or shower facility designated for one biological sex creates a presumption that the rest room or shower facility is restricted to that biological sex.

This amendment was not adopted.

**House Amendment "A" To Committee Amendment "A" (H-559)**

This amendment amends the Committee Amendment to remove rest rooms and bathrooms from the list of facilities for which it is not unlawful public accommodations discrimination to restrict access based on privacy concerns.

This amendment was not adopted.

**LD 1053    An Act To Impose a Mandatory Minimum Award in Small Claims  
Actions**

**ONTP**

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

This bill amends the small claims laws to require the court to award a minimum of \$25 to a prevailing plaintiff. This award may not be suspended or waived by the court.

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**LD 1070    An Act To Expedite the Eviction Process and Lower the Eviction Workload of the Courts**

**ONTP**

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

This bill addresses forcible entry and detainer actions in which the landlord alleges that the tenant has not paid the rent. The bill requires the tenant, when answering the forcible entry and detainer complaint, to pay to the court clerk the amount stated in the complaint that the tenant owes in accrued rent. If the tenant disputes the amount, the court determines the appropriate amount to be paid to the court clerk. The court clerk deposits the funds received in an account and maintains records of the amounts paid. The court may require the tenant to pay rent as it accrues during the pendency of the action.

When the court enters the judgment in the action, the court determines who is to receive the funds that the tenant paid to the clerk.

If the tenant fails to pay as required by the court, the tenant is deemed to have waived all defenses and a judgment must be issued for the landlord.

The court may disburse money from the account to the landlord before the judgment if the landlord is in actual danger of loss of the premises or faces other hardship from the loss of rental income.

**LD 1076    An Act To Protect Maine Laws under the United States Constitution and the Constitution of Maine**

**MAJORITY  
(ONTP) REPORT**

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

This bill is based on Tennessee Public Acts, 2010, Public Chapter Number 983. The bill addresses the application of foreign law in this State.

The bill provides that the factor in considering whether to grant comity to a decision rendered under any foreign law, legal code or legal system against a natural person in this State is whether the constitutional rights under the United States Constitution and the Constitution of Maine of the person would be protected. Similarly, if a contract or other agreement provides for the choice of a foreign law, legal code or legal system, the primary factor in the interpretation, enforcement or application of the agreement is the preservation of the constitutional rights of the natural person in this State. The right of a natural person to voluntarily restrict or limit that person's own constitutional rights consistent with constitutional principles is not limited by the bill; however, a contract or specific waiver restricting or limiting rights must be strictly construed in favor of preserving the constitutional rights of the natural person.

The bill provides that the primary factor to be considered in interpreting or construing a choice of venue or forum provision is whether it can be interpreted or construed to preserve the constitutional rights of the natural person in this State against whom enforcement is sought. A claim for forum non conveniens or a related claim must be denied

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if the court determines that granting the claim violates or would likely violate the constitutional rights of the nonclaimant in the foreign forum with respect to the matter in dispute.

The bill does not apply to a corporation, partnership or other legal business entity.

The bill applies only to actual or to foreseeable violations of the constitutional rights of a natural person in this State from a foreign law, legal code or legal system.

**LD 1082     An Act Concerning the Protection of Personal Information in  
Communications with Elected Officials**

**PUBLIC 264**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-361

This bill consists of the recommendations of the majority of the members of the legislative subcommittee of the Right to Know Advisory Committee in response to Resolve 2009, chapter 184.

This bill amends the definition of "public record" in the freedom of access laws to provide that certain information in communications between constituents and elected officials is not a public record. Specifically, information is not a public record if the information would be confidential if it were in the possession of another public agency or official or if the information is of a personal nature.

**Committee Amendment "A" (H-361)**

This amendment directs the Right To Know Advisory Committee to examine the benefit of public disclosure of elected officials' e-mails and other records balanced with the availability of technology and other systems necessary to maintain the records and to provide public access. The Right To Know Advisory Committee's findings and recommendations must be included in its 2012 annual report pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 10.

**Enacted Law Summary**

Public Law 2011, chapter 264 consists of the recommendations of the majority of the members of the legislative subcommittee of the Right to Know Advisory Committee in response to Resolve 2009, chapter 184.

Chapter 264 amends the definition of "public record" in the freedom of access laws to provide that certain information in communications between constituents and elected officials is not a public record. Specifically, information is not a public record if the information would be confidential if it were in the possession of another public agency or official or if the information is of a personal nature.

Chapter 264 directs the Right To Know Advisory Committee to examine the benefit of public disclosure of elected officials' e-mails and other records balanced with the availability of technology and other systems necessary to maintain the records and to provide public access. The Right To Know Advisory Committee's findings and recommendations must be included in its 2012 annual report pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 10.

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**LD 1087     An Act To Modernize the Procedure for Appeals in Criminal Cases**

**MAJORITY  
(ONTP) REPORT**

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

Current law provides that a prosecutor is prohibited from filing an appeal in certain criminal matters without the written approval of the Attorney General. This bill allows the prosecutor to proceed with the appeal even after the Attorney General does not approve the appeal if at least 3 other district attorneys give their written approval.

**LD 1093     An Act To Require the State To Pay Costs and Fees in Actions against  
Certain State Agencies**

**ONTP**

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

This bill authorizes the award of administrative costs or litigation costs to the prevailing party in an administrative action or a court action involving the Department of Administrative and Financial Services, Maine Revenue Services or the Department of Environmental Protection if the State is not the prevailing party.

**LD 1101     An Act To Require Specificity in Deed Restrictions**

**ONTP**

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

This bill requires that if a deed delivered after September 30, 2011 contains a provision or covenant restricting commercial activity, it must specifically state "timber harvesting" or "agricultural activity" in order for timber harvesting or agricultural activity to be restricted by the restrictive provision or covenant in that deed.

**LD 1103     An Act To Speed Recovery of Amounts Due the State**

**PUBLIC 181**

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

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This bill clarifies the process by which administrative orders may be enforced by the State in order to expedite the time frame in which administrative orders can be enforced while preserving due process rights.

**Enacted Law Summary**

Public Law 2011, chapter 181 clarifies the process by which administrative orders may be enforced by the State in order to expedite the time frame in which administrative orders can be enforced while preserving due process rights.

**LD 1104      An Act To Direct the Judicial Branch To Take Requisite Measures To      PUBLIC 131**  
**Collect Fines and Penalties**

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

This bill allows the judicial branch to contract with state agencies or private debt collection services to collect overdue fines and fees.

**Enacted Law Summary**

Public Law 2011, chapter 131 allows the judicial branch to contract with state agencies or private debt collection services to collect overdue fines and fees.

**LD 1111      An Act To Ensure Timely Resolution of Professional Negligence Claims      LEAVE TO WITHDRAW**

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

Under the Maine Health Security Act, a person is allowed to commence an action for professional negligence only by first submitting the claim to a mandatory prelitigation screening and mediation panel.

This bill allows a claimant whose hearing has not been held within 18 months of the submission of the claim to the panel to bypass the panel and have the case heard in Superior Court.

**LD 1135      An Act To Protect the Rights of Property Owners      MAJORITY (ONTP) REPORT**

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

This bill requires the State or a municipality or county to pay compensation for the enactment or application of land use regulations that reduce the fair market value of private property, with some exceptions.

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The owner is due compensation 180 days after making a written demand for payment. If the public entity does not pay the compensation, the owner may file the claim in Superior Court and is entitled to attorney's fees and other costs. If compensation is not paid within 2 years, the owner may use the property as permitted at the time the owner acquired the property.

See also LD 1477.

### **Committee Amendment "A" (S-241)**

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

This amendment provides that compensation is due when land use regulations that are enacted after the effective date of this legislation reduce by at least 50% the fair market value of property or an interest in property.

This amendment was not adopted.

### **LD 1152     An Act To Amend the Child and Family Services and Child Protection Act**

**PUBLIC 402**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CRAVEN	OTP-AM	S-294

This bill makes changes to the Child and Family Services and Child Protection Act concerning notification of relatives when a child is removed from the child's parents' home, youth in foster care, permanency guardianship subsidies, adoption by the permanency guardian and reinstatement of parental rights.

### **Committee Amendment "A" (S-294)**

This amendment replaces the bill but retains some of the sections with minor changes and continues to carry out the intent of the bill.

This amendment authorizes hospitals, medical personnel and law enforcement personnel to submit emergency reports of child abuse or neglect to the Department of Health and Human Services via an e-mail or a faxed report.

This amendment clarifies that the District Court has jurisdiction over petitions for adoption from permanency guardianship filed by the department.

This amendment revises the provisions on extended care for persons who are 18, 19 or 20 years of age who attained 18 years of age while in the care and custody of the State. In addition to reformatting the language, it provides additional details on the District Court's required review that must occur at least once every 12 months. The person or the department may terminate the agreement of extended care and support without approval by the court; the department must notify the court of the termination. Guardians ad litem and attorneys may not be appointed for persons who are at least 18 years of age.

This amendment provides specific elements that must be included in a petition for adoption from permanency guardianship. A background check of each prospective adoptive parent must be included, as well as the home study of the permanency guardian or an updated home study if the original home study was completed more than 2 years before the filing of the petition. This amendment requires a case management conference after a petition has been filed and requires the court to appoint a guardian ad litem and attorneys for indigent parents and custodians. This amendment also requires service of the petition for adoption and the notice of the case management conference on the child's parents. If the parents do not consent, the court must dismiss the adoption petition.

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This amendment revises the language on the reinstatement of parental rights. As provided in the bill, only the department may petition to have parental rights reinstated, and only in specific circumstances. This amendment includes specific elements of the petition for reinstatement and includes a specific process that the court must follow.

### **Enacted Law Summary**

Public Law 2011, chapter 402 makes the following changes to the Child and Family Services and Child Protection Act.

1. It requires that the Department of Health and Human Services, within 30 days of the removal of a child from the custody of the child's parents, exercise due diligence to identify and provide notice to all grandparents and other adult relatives of the child, except in cases of family or domestic violence. This legislation is required under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351.
2. It provides services for youth who are in foster care at 18 years of age and are at risk of leaving care without a permanent family or sufficient life skills and supports to manage independence. This legislation is consistent with provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351 that allow states to draw federal funds to support older youth but require judicial oversight and support by a state agency.
3. It amends language in the statutes governing permanency guardianship. It removes the requirement that a child must be identified as a special needs child to receive a guardianship subsidy. It amends the law to allow permanency guardians the option of receiving nonrecurring reimbursement for expenses associated with becoming permanency guardians. It removes language that allows the guardianship subsidy to be transferred to a new permanency guardian upon death or disability of the original permanency guardian. It provides that a permanency guardian is subject to a fingerprint-based background check.
4. It establishes a new category of licensure in child welfare services, the resource family license. This license is for a person or persons who are foster parents, adoptive parents or members of a child's extended birth family who provide care to a child.
5. It provides for the adoption of a child who was previously in foster care and is the subject of a permanency guardianship order when the permanency guardian and the child determine adoption is in the best interest of the child. Chapter 402 provides that the District Court has jurisdiction over petitions for adoption from permanency guardianship filed by the department.
6. It allows for the reinstatement of parental rights for a parent after a period of 12 months after a termination of parental rights upon a finding that there has been a material change in circumstances that indicate the parent is now able to provide a safe home and is willing to care for the child. Chapter 402 allows the court to hold a hearing to determine reinstatement in accordance with the best interest of the child, whether the parent has remedied conditions and the child's wishes. Only the department may petition to reinstate parental rights.
7. It authorizes hospitals, medical personnel and law enforcement personnel to submit emergency reports of child abuse or neglect to the Department of Health and Human Services via an e-mail or a faxed report.

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**LD 1154     An Act To Implement the Recommendations of the Right To Know  
Advisory Committee**

**PUBLIC 320**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-441

This bill implements the recommendations of the Right to Know Advisory Committee as included in the Advisory Committee's 5th annual report.

**Committee Amendment "A" (H-441)**

This amendment adds a mandate preamble.

**Enacted Law Summary**

Public Law 2011, chapter 320 is the recommendations of the Right to Know Advisory Committee.

The recommendations resulting from the review of existing public records exceptions are contained in Part A.

Part B is in response to Resolve 2009, chapter 171. Part B amends the public policy section of the freedom of access laws to specifically allow communications outside of public proceedings between members of a public body if those communications are not used to defeat the purposes of the freedom of access laws.

Part C contains the advisory committee's recommendations pursuant to Resolve 2009, chapter 186. Part C requires that public bodies keep records of their meetings if they are required under the freedom of access laws to give notice of their meetings and the public body is not purely advisory in its authority.

Part D consists of the advisory committee's recommendations to broaden the review requirements for both existing public records exceptions and the Legislature's review of proposed public records exceptions. Part D provides that the review and evaluation process includes language that affects the public accessibility of a public record. Any factors that affect the accessibility may be considered, including but not limited to fees, request procedures and timeliness of responses.

Part E exempts social security numbers from the definition of "public records" under the freedom of access laws.

The mandate preamble exempts the State from paying the costs that may result from the requirement that records be kept of public proceedings.

**LD 1172     An Act To Prohibit Enforcement of Federal Laws in Violation of the  
Constitution of the United States**

**MAJORITY  
(ONTP) REPORT**

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

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This bill expresses the findings of the Legislature that the Commerce Clause of the United States Constitution is valid for the regulation of interstate commerce but not intrastate commerce. The bill prohibits a federal or state official, agent or employee from enforcing a federal act, order, law, statute, rule or regulation that attempts to regulate goods grown, manufactured or made in this State or services performed in this State. Violation by a federal official is a Class C crime, punishable by up to 5 years in prison and a fine of up to \$5,000. Violation by a state official is a Class D crime, punishable by less than one year in prison and a fine of up to \$2,000.

### **Committee Amendment "A" (H-516)**

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

This amendment replaces the provision in the bill that prohibits any person from interfering with intrastate goods and services and created Class C and Class D crimes. This amendment prohibits a state official or employee from enforcing a federal law that regulates or attempts to regulate goods grown, manufactured or made in this State or services performed in this State when those goods or services are sold, maintained, retained or performed exclusively in this State, unless the official or employee is authorized to do so by state law. This amendment also directs state courts to not give force or effect to any action by a state official or employee that is inconsistent with the prohibition.

This amendment was not adopted.

### **LD 1186     An Act To Amend the Probate Code Relating to the Authority of the Probate Court To Approve Transfers from a Protected Person's Estate**

**PUBLIC 155**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS	OTP-AM	S-75

This bill amends the Probate Code to provide that the Probate Court does not need to make a finding about the adequacy of the protected person's estate when approving a gift or transfer for less than fair market value from the protected person's estate if the gift or transfer is to the protected person's spouse or blind or disabled child. The bill incorporates the federal change in the look-back period from 36 months to 60 months.

### **Committee Amendment "A" (S-75)**

This amendment clarifies that any gift or transfer that can be made without a transfer penalty under applicable federal law may be approved by the Probate Court without the court's making findings about the adequacy of the estate or the potential eligibility for MaineCare coverage.

### **Enacted Law Summary**

Public Law 2011, chapter 155 amends the Probate Code to provide that the Probate Court does not need to make a finding about the adequacy of the protected person's estate when approving a gift or transfer for less than fair market value from the protected person's estate if the gift or transfer can be made without a transfer penalty under applicable federal law. Chapter 155 also incorporates the federal change in the look-back period from 36 months to 60 months.

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**LD 1193 An Act To Strengthen Confidentiality Laws for Child Victims of Crime**

**ONTP**

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

Current law requires the Department of Health and Human Services to grant access to confidential records held by the department in connection with the department's child protective activities if a court determines that the records may be necessary for the determination of an issue before the court. Access is limited to counsel of record unless otherwise produced by the court.

This bill requires counsel of record to establish a basis for the counsel's claim that the confidential records contain evidence that is both material and favorable to the counsel's case before the court may grant access.

**LD 1198 An Act To Reduce Regulations for Residential Rental Property Owners**

**PUBLIC 405**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PICCHIOTTI SNOWE-MELLO	OTP-AM	H-575 H-595 NASS

This bill makes changes to the residential rental property laws, including:

1. Eliminating the presumption that a forcible entry and detainer action commencing after a tenant files a fair housing complaint is retaliatory;
2. Removing, in a forcible entry and detainer action, the tenant's affirmative defense that the landlord failed to provide reasonable accommodation pursuant to the Maine Human Rights Act or the federal Fair Housing Act;
3. Preventing the tenant from raising the presumption of retaliation if the forcible entry and detainer action is being brought for failure to pay the rent or substantial damage to the premises by the tenant;
4. Requiring a tenant disputing a forcible entry and detainer action to submit an affidavit to the court that the tenant is not in arrears in payment of the rent as of the date of the filing of the forcible entry and detainer action;
5. Changing the responsibilities of a landlord regarding property abandoned by the tenant, including allowing the landlord to require that the tenant pay any rent or storage fees to the landlord prior to the landlord's releasing the property;
6. Removing the requirement that the landlord disclose to a prospective tenant the existence of a bedbug infestation in a neighboring unit and the history of inspection of the rental units;
7. Requiring the landlord to provide energy efficiency disclosures only upon request by a prospective tenant; and
8. Amending the radon testing requirements to require testing only when the residential rental property is acquired

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by a landlord and only for those units on the lowest level of that residential property.

### **Committee Amendment "A" (H-575)**

This amendment replaces the bill and does the following:

1. It provides that there must be a reasonable basis for the fair housing complaint for it to be a defense to an eviction and provides that the presumption of retaliation does not apply if the fair housing complaint was filed after the tenant was served with an eviction notice;
2. It defines the term "reasonable accommodation" and provides that there must be a causal link between the reasonable accommodation and the conduct that is the subject of the eviction action;
3. It provides that if an action for forcible entry and detainer is brought for failure to pay rent or for causing substantial damages to the premises, there is no presumption of retaliation unless the tenant has asserted that tenant's rights under the Maine Revised Statutes, Title 14, section 6026, which allows the tenant to offset rent with expenditures made by the tenant for repairs or heating costs if included in the rent;
4. It provides that the tenant must attach an affidavit to a Notice of Appeal stating that the tenant has complied with the law in order to stay the issuance of a writ of possession pending an appeal;
5. It provides that a lease or tenancy at will agreement may permit a landlord to dispose of property abandoned by the tenant without liability as long as the landlord complies with the applicable notice requirements;
6. It reduces the time a tenant has to respond to a notice to dispose of the tenant's property that is being stored by the landlord from 14 days to 7 days;
7. It reduces the time a landlord must continue to store the tenant's property if that tenant responds to the notice to dispose within the required time frame from 24 days to 14 days;
8. It provides that a tenant may waive the rights provided in law addressing unclaimed property. If the tenant's waiver is oral the landlord must confirm this waiver in writing;
9. It provides that the notice of disposal may be sent after entry of judgment for the landlord but prior to the service of the writ of possession or the tenant's vacating the premises. However, if the tenant is still in possession of the rental unit, the tenant would still have at least 7 days after the notice is sent or 48 hours after the writ of possession is served, whichever is later, to claim the property;
10. It repeals the law that requires a landlord to provide financial assistance to tenants to control bed bugs;
11. It requires landlords to disclose the cost of the tenant's compliance with the requested inspection or bed bug control measures and allows a landlord to provide financial assistance in preparing the unit for bed bug treatment and provides that the landlord is not liable to provide the tenant with alternate lodging or to replace the tenant's personal property;
12. It provides that the presumption of retaliation only applies if the tenant complained about the bed bugs prior to being served with the eviction notice and the presumption of retaliation does not apply if the action for forcible entry and detainer was brought for failure to pay rent or causing substantial damages to the premises;
13. It provides that a prospective tenant who would be paying for a utility has the right to obtain from the regulated utility or the vendor the amount of consumption for the prior 12 months;
14. It requires the landlord to provide an energy efficiency disclosure statement to the tenant or lessee who is paying

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for an energy supply for the unit or upon the request of a tenant or lessee;

15. It allows a landlord to either place a disclosure of the tenant's right to obtain the energy use history of the rental unit in the application or give the tenant the energy efficiency disclosure statement; and

16. It removes the requirement that the landlord post the disclosure statement in a prominent location in the property that is being offered for rent or lease and reduces the time a landlord must retain the statement signed by the tenant from a minimum of 7 years to 3 years.

### **House Amendment "A" To Committee Amendment "A" (H-595)**

Committee Amendment "A" provides that a landlord may send a notice at any time after entry of judgment in favor of the landlord to a tenant of the landlord's intent to dispose of property remaining in a rental unit. It clarifies that the notice may also be sent at any time after the tenant vacates the rental unit.

This amendment also includes a provision inadvertently left out of Committee Amendment "A" that provides that a lease or tenancy at will agreement may permit a landlord to dispose of property abandoned by a tenant without liability as long as the landlord complies with applicable notice requirements.

### **Enacted Law Summary**

Public Law 2011, chapter 405 does the following:

1. It provides that there must be a reasonable basis for the fair housing complaint for it to be a defense to an eviction and provides that the presumption of retaliation does not apply if the fair housing complaint was filed after the tenant was served with an eviction notice;
2. It defines the term "reasonable accommodation" and provides that there must be a causal link between the reasonable accommodation and the conduct that is the subject of the eviction action;
3. It provides that if an action for forcible entry and detainer is brought for failure to pay rent or for causing substantial damages to the premises, there is no presumption of retaliation unless the tenant has asserted that tenant's rights under the Maine Revised Statutes, Title 14, section 6026, which allows the tenant to offset rent with expenditures made by the tenant for repairs or heating costs if included in the rent;
4. It provides that the tenant must attach an affidavit to a Notice of Appeal stating that the tenant has complied with the law in order to stay the issuance of a writ of possession pending an appeal;
5. It provides that a lease or tenancy at will agreement may permit a landlord to dispose of property abandoned by the tenant without liability as long as the landlord complies with the applicable notice requirements;
6. It reduces the time a tenant has to respond to a notice to dispose of the tenant's property that is being stored by the landlord from 14 days to 7 days;
7. It reduces the time a landlord must continue to store the tenant's property if that tenant responds to the notice to dispose within the required time frame from 24 days to 14 days;
8. It provides that a tenant may waive the rights provided in law addressing unclaimed property. If the tenant's waiver is oral the landlord must confirm this waiver in writing;
9. It provides that the notice of disposal may be sent after entry of judgment for the landlord but prior to the service of the writ of possession or at any time after the tenant vacates the premises. However, if the tenant is still in possession of the rental unit, the tenant would still have at least 7 days after the notice is sent or 48 hours after the writ of possession is served, whichever is later, to claim the property;

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- 10. It repeals the law that requires a landlord to provide financial assistance to tenants to control bed bugs;
- 11. It requires landlords to disclose the cost of the tenant's compliance with the requested inspection or bed bug control measures and allows a landlord to provide financial assistance in preparing the unit for bed bug treatment and provides that the landlord is not liable to provide the tenant with alternate lodging or to replace the tenant's personal property;
- 12. It provides that the presumption of retaliation only applies if the tenant complained about the bed bugs prior to being served with the eviction notice and the presumption of retaliation does not apply if the action for forcible entry and detainer was brought for failure to pay rent or causing substantial damages to the premises;
- 13. It provides that a prospective tenant who would be paying for a utility has the right to obtain from the regulated utility or the vendor the amount of consumption for the prior 12 months;
- 14. It requires the landlord to provide an energy efficiency disclosure statement to the tenant or lessee who is paying for an energy supply for the unit or upon the request of a tenant or lessee;
- 15. It allows a landlord to either place a disclosure of the tenant's right to obtain the energy use history of the rental unit in the application or give the tenant the energy efficiency disclosure statement; and
- 16. It removes the requirement that the landlord post the disclosure statement in a prominent location in the property that is being offered for rent or lease and reduces the time a landlord must retain the statement signed by the tenant from a minimum of 7 years to 3 years.

**LD 1199      An Act To Expedite the Eviction Process in Certain Types of Cases**

**ONTP**

Sponsor(s)

CELLI

Committee Report

ONTP

Amendments Adopted

Current law allows a tenant who is at least 7 days in arrears in the payment of rent to pay the full amount of rent due by the expiration of the notice of the termination of tenancy, in which case the notice is void.

This bill amends the forcible entry and detainer process to give the landlord the choice as to whether to allow an opportunity to cure an arrearage of 7 or more days in the payment of rent if the tenant has paid rent for 2 or fewer months.

It direct the court to establish an expedited process to handle the determination of the cases in which the tenant has paid rent for 2 or fewer months and is at least 7 days in arrears. It requires the hearing on the complaint to be held no later than 5 days after the return day. This bill also provides that if the landlord is successful in the action, either because the tenant fails to appear and is defaulted or because the court determines that the tenant failed to show sufficient cause, the court shall issue a judgment for the landlord and shall issue the writ of possession at the time the judgment is issued. Current law delays the writ of possession for 7 days after the judgment.

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**LD 1256 An Act Concerning Tort Claims and Governmental Entities**

**DIED BETWEEN HOUSES**

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

This bill amends the Maine Tort Claims Act to clarify the liability of a governmental entity for its negligent acts and omissions in the use of equipment, vehicles and machinery. "Use" is defined as being employed by the governmental entity for its purposes or in connection with its activities.

The bill imposes liability for the governmental entity's negligent acts or omissions regardless of whether an employee of the governmental entity is operating the vehicle, machinery or equipment at the time of the occurrence causing property damage or bodily injury. The governmental entity is not, however, liable for the negligence of any nongovernmental person or entity in the connection with the use of the vehicle, machinery or equipment.

The bill provides that a governmental entity may be jointly and severally liable with a nongovernmental person or entity, but only if the negligent acts or omissions of the governmental entity were a cause of the property damage or bodily injury.

**Committee Amendment "A" (S-266)**

This amendment, which is the majority report of the committee, strikes and replaces the bill. It retains provisions from the bill regarding a governmental entity's liability for negligent acts or omissions and adds an application date of January 1, 2013 to provide sufficient time for governmental entities to obtain insurance or provide for self-insurance. This amendment adds a mandate preamble and an appropriations and allocations section.

This amendment was not adopted.

**LD 1272 An Act To Create a Family Ombudsman in the Judicial Branch and the Department of Corrections**

**MAJORITY (ONTP) REPORT**

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

This bill creates a family ombudsman in both the court system and the Department of Corrections. The bill:

1. Directs the State Court Administrator to appoint a member of court system personnel as the family ombudsman for the court system to act as an intermediary between the accused and their families and court officials; and
2. Directs the Commissioner of Corrections to appoint a member of the department as the family ombudsman for the corrections system to act as an intermediary among prisoners, their families and the Department of Corrections.

**Committee Amendment "A" (S-172)**

This amendment is the minority report of the Joint Standing Committee on Judiciary. It adds an appropriations and

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allocations section.

This amendment was not adopted.

**LD 1276 An Act To Increase Efficiency of the State Court Library Committee**

**PUBLIC 204**

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

This bill eliminates the requirement that the State Court Library Committee meet at least four times a year and gives the State Court Library Committee flexibility in the provision of resources to law libraries.

**Enacted Law Summary**

Public Law 2011, chapter 204 eliminates the requirement that the State Court Library Committee meet at least four times a year and gives the State Court Library Committee flexibility in the provision of resources to law libraries.

**LD 1310 An Act To Amend the Laws Governing the Address Confidentiality Program**

**PUBLIC 195**

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

This bill makes the following changes to the laws governing the Address Confidentiality Program administered by the Secretary of State.

1. It adds geographically specific descriptions or coordinates that identify a residential address to the definition of "address."
2. It adds the Address Confidentiality Program's e-mail account to the information that must be kept confidential.

**Enacted Law Summary**

Public Law 2011, chapter 195 makes the following changes to the laws governing the Address Confidentiality Program administered by the Secretary of State.

1. It adds geographically specific descriptions or coordinates that identify a residential address to the definition of "address."
2. It adds the Address Confidentiality Program's e-mail account to the information that must be kept confidential.

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LD 1332 An Act To Amend the Maine Condominium Act

PUBLIC 368

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOULTON COLLINS	OTP-AM MAJ OTP-AM MIN	H-454

This bill amends the Maine Condominium Act.

The bill allows the condominium owners' association to assign its right to future income, including the right to receive assessments, but only if a majority of the unit owners have approved.

The bill revises the law governing the record requirements of condominium owners' associations to list specific records that must be retained. The records must be available for examination and copying by a unit owner or the owner's authorized agent, with certain exceptions.

The bill provides that assessments for common expenses accrue, free from a lien of a foreclosing first mortgagee, from and after the initial date set for public sale of a condominium unit.

The bill defines the term "priority amounts" to mean the amount of the association's regular assessments that would have become due during the 6-month period immediately prior to initiating a lawsuit to enforce a lien. It establishes that a lien securing priority amounts is prior to a first mortgage. The association's failure to notify a first mortgagee that the owner of the unit is delinquent by 60 days in the payment of common expenses or that the association intends to file an action to enforce the lien does not affect the priority of the lien, but failure to send at least one notice means that the association is not entitled to receive any costs or attorney's fees. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted with 5 years after the full amount of assessments becomes due. Current law extinguishes the lien after 3 years.

The bill gives an association the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but the association may not deny access or withhold services if it would endanger the health, safety or property of any person.

The bill amends the law concerning the executive board to require the board to provide notice of meetings. Unit owners have the right to attend meetings, subject to reasonable rules. The board may prohibit attendance by unit owners and others during executive session, which may be held for only specific reasons.

**Committee Amendment "A" (H-453)**

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

This amendment revises the definition in the bill of "priority amounts" that can be collected through a priority lien on a condominium by deleting the inclusion of the condominium association's costs and reasonable attorney's fees in enforcing the lien. As does the bill, this amendment provides that a lien securing priority amounts is prior to a first mortgage, but the amendment limits the lien to those entered into on or after the effective date of this legislation. The amendment corrects a cross-reference in the language providing that full payment of the priority amounts discharges the priority lien.

This amendment provides that assessments for common expenses accrue, free from the lien of a foreclosing first mortgagee, from and after the date of sale of the condominium unit. The bill states the starting time is the initial date set for public sale.

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This amendment was not adopted.

### **Committee Amendment "B" (H-454)**

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

This amendment deletes the proposed priority lien for condominium assessments that would take priority over a first mortgage.

This amendment provides that assessments for common expenses accrue, free from the lien of a foreclosing first mortgagee, from and after the date of sale of the condominium unit. The bill states the starting time is the initial date set for public sale.

### **Enacted Law Summary**

Public Law 2011, chapter 368 amends the Maine Condominium Act.

Chapter 368 allows the condominium owners' association to assign its right to future income, including the right to receive assessments, but only if a majority of the unit owners have approved.

Chapter 368 revises the law governing the record requirements of condominium owners' associations to list specific records that must be retained. The records must be available for examination and copying by a unit owner or the owner's authorized agent, with certain exceptions.

Chapter 368 provides that assessments for common expenses accrue, free from a lien of a foreclosing first mortgagee, from and after the date of sale of the condominium unit.

Chapter 368 gives an association the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but the association may not deny access or withhold services if it would endanger the health, safety or property of any person.

Chapter 368 amends the law concerning the executive board to require the board to provide notice of meetings. Unit owners have the right to attend meetings, subject to reasonable rules. The board may prohibit attendance by unit owners and others during executive session, which may be held for only specific reasons.

### **LD 1349     An Act To Amend the Laws Governing the Handling of Medical Examiner Cases**

**PUBLIC 182**

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

Current law requires that the medical examiner or the person expressly authorized by the Chief Medical Examiner conduct a thorough examination of a body in a medical examiner case. This bill provides an exception for a case in which the Chief Medical Examiner or the Deputy Chief Medical Examiner determines, after review of available records and known circumstances, that the report of the death of the decedent may be certified and completed without examining the body.

### **Enacted Law Summary**

Current law requires that the medical examiner or the person expressly authorized by the Chief Medical Examiner conduct a thorough examination of a body in a medical examiner case. Public Law 2011, chapter 182 provides an

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exception for a case in which the Chief Medical Examiner or the Deputy Chief Medical Examiner determines, after review of available records and known circumstances, that the report of the death of the decedent may be certified and completed without examining the body.

**LD 1353     An Act To Amend the Discovery Rule Laws**

**ONTP**

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

This bill codifies the discovery rule for product liability cases to specify that the cause of action, for statute of limitation purposes, accrues when a person suffers a personal injury due to a defective product or good or, if the defect was not reasonably discoverable, when the person knew or should have known of the defective good or product.

**LD 1360     An Act To Provide Prevailing Mortgagors Attorney's Fees in the Foreclosure Process**

**PUBLIC 269**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT HILL	OTP-AM	H-373

This bill allows a mortgagor to recover court costs and attorney's fees if the mortgagor prevails in a foreclosure action.

**Committee Amendment "A" (H-373)**

This amendment carries out the intent of the bill and clarifies when the court may award reasonable costs and attorney's fees in a foreclosure action.

The court may award reasonable costs and attorney's fees to the mortgagor in a foreclosure action if the mortgagee does not prevail or if the court finds evidence that the mortgagee did not bring the action in good faith. In either case, the court may deny in full or in part the award of costs and attorney's fees to the mortgagee. This amendment provides that the term "does not prevail" does not include a stipulation of dismissal entered into by the parties, an agreed-upon motion to dismiss the action without prejudice to facilitate settlement or successful mediation of the foreclosure action.

**Enacted Law Summary**

Public Law 2011, chapter 269 allows the court to award reasonable costs and attorney's fees in a foreclosure action. The court may award reasonable costs and attorney's fees to the mortgagor in a foreclosure action if the mortgagee does not prevail or if the court finds evidence that the mortgagee did not bring the action in good faith. In either case, the court may deny in full or in part the award of costs and attorney's fees to the mortgagee. Chapter 269 provides that the term "does not prevail" does not include a stipulation of dismissal entered into by the parties, an agreed-upon motion to dismiss the action without prejudice to facilitate settlement or successful mediation of the foreclosure action.

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**LD 1365 An Act Regarding Protection Orders**

**PUBLIC 265**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HINCK SHERMAN	OTP-AM	H-362

This bill amends the laws pertaining to domestic violence as follows.

1. It creates an exception to the hearsay rule to allow an out-of-court statement to be admitted as evidence in a court proceeding even if the person who made the statement is available if the statement meets certain criteria. The statement must purport to narrate, describe, report or explain an incident of domestic violence assault as defined in the Maine Revised Statutes, Title 17-A, section 207-A and must have been made by a victim of the domestic violence assault within 24 hours after the incident occurred. The statement must have been recorded, either electronically or in writing, or made to a law enforcement officer, provider of emergency medical services or firefighter. The statement must have sufficient indicia of reliability. The court may use specific criteria to determine reliability of the statement. The fact that the declarant withdrew the statement cannot be used to deny admission if the statement is otherwise reliable. This hearsay exception is modeled on a recently enacted Oregon statute.
2. It allows the offering into evidence at a hearing for a protection from abuse order the defendant's prior convictions for domestic violence assault.
3. It requires the Board of Trustees of the Maine Criminal Justice Academy to adopt a model policy for the serving of protection from abuse orders as quickly as possible. It also requires law enforcement agencies to adopt such policies.

**Committee Amendment "A" (H-362)**

This amendment removes from the bill the provisions creating a hearsay exception and that allow a defendant's prior conviction of domestic violence assault to be offered into evidence at a hearing for a protection from abuse order. It retains the sections of the bill that require the Maine Criminal Justice Academy and law enforcement agencies to adopt policies to ensure that the service of a protection from abuse order is done as quickly as possible.

**Enacted Law Summary**

Public Law 2011, chapter 265 requires the Board of Trustees of the Maine Criminal Justice Academy to adopt a model policy for the serving of protection from abuse orders as quickly as possible. It also requires law enforcement agencies to adopt such policies.

**LD 1374 An Act To Protect Seniors and Incapacitated or Dependent Adults from Abuse**

**PUBLIC 201**

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

This bill allows an adult who is 60 years of age or older or an incapacitated or dependent adult to seek a protection from abuse order if that adult is a victim of abuse by an extended family member or an unpaid care provider.

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Currently, an adult can only secure relief under the protection from abuse laws if the abuse is perpetrated by a family or household member or a dating partner and that definition does not include spouses of adult children, grandchildren, other relatives and caregivers.

### Enacted Law Summary

Public Law 2011, chapter 201 allows an adult who is 60 years of age or older or an incapacitated or dependent adult to seek a protection from abuse order if that adult is a victim of abuse by an extended family member or an unpaid care provider.

### LD 1377      **An Act To Adopt the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act**      **Carried Over**

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

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

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

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

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P. 1190.

### LD 1415      **An Act To Update the Bankruptcy Laws To Incorporate Federal Changes Relating to Exemptions**      **PUBLIC 203 EMERGENCY**

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

This bill amends Maine's bankruptcy laws to conform with the United States Code as it pertains to bankruptcy exemptions.

### Enacted Law Summary

Public Law 2011, chapter 203 amends Maine's bankruptcy laws to conform with the United States Code as it pertains to bankruptcy exemptions.

Public Law 2011, chapter 203 was enacted as an emergency measure effective June 2, 2011.

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**LD 1426      An Act Concerning Notification to an Employer of Misrepresented Medical Information under the Maine Human Rights Act      ONTP**

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

Under current law, information obtained through a so-called "post-offer, preemployment physical" may be shared with supervisors and managers only for purposes of informing supervisors and managers about work restrictions or accommodations necessary for that employee. This bill authorizes such disclosure for the additional purpose of informing supervisors, managers and members of an employer's management team of any misrepresentation, untruthful statement or omission of information by the applicant or employee on any medical form, record or file.

**LD 1448      An Act To Protect Time-share Condominium Associations      ONTP**

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

This bill provides an alternative to existing law for foreclosing time-share liens and mortgages. The bill allows the mortgagee or lienholder to foreclose the mortgage or lien by entry, if not opposed. The entry must be peaceable and must be in the presence of 2 witnesses. The notarized certificate of fact of the entry, signed by the witnesses, must be recorded in the registry of deeds. Possession obtained in this manner and continued for one year extinguishes the right of redemption.

**LD 1457      An Act To Strengthen the Consent Laws for Abortions Performed on Minors and Incapacitated Persons      MAJORITY (ONTP) REPORT**

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

This bill repeals the current law concerning consent for a minor's abortion.

This bill requires the notarized written consent of a parent or legal guardian before an abortion may be performed on a minor or an incapacitated person. Consent may be given in certain circumstances by a brother or sister who is at least 21 years of age or by a stepparent or a grandparent. Consent is not required in a medical emergency. The Probate Court or District Court may issue an order for the purpose of consenting to the abortion in two circumstances. First, the court may waive the need for parental consent if it finds by clear and convincing evidence that the petitioner is both sufficiently mature and well-informed to decide whether to have an abortion. Second, the court may waive the need for parental consent if the court finds by clear and convincing evidence that there is a pattern of physical or sexual abuse or neglect of the petitioner by one or both of her parents or her guardian, or that notification of a parent or guardian is not in the best interests of the petitioner.

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See also LD 116 and LD 914.

### **Committee Amendment "A" (H-468)**

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

This amendment gives the Probate Court or the District Court 96 hours to rule and issue findings of fact and conclusions of law on a minor's or incapacitated person's request for an abortion without the consent of the parent or legal guardian. The bill requires a decision within 48 hours.

This amendment was not adopted.

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

**Carried Over**

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

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

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

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P. 1190.

### **LD 1473     An Act To Clarify Rights-of-way Laws**

**PUBLIC 312**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WEAVER SHERMAN	OTP-AM	H-440

Current law allows a person who owns land that abuts a proposed, unaccepted way ownership to the center line of that proposed way. This bill allows a person who owns land in a subdivision that abuts a proposed, unaccepted way to own the entire width of the way if the land on the opposite side of the way is not part of the subdivision and allows the person to own an extension of that portion of the way beyond the boundary of the person's land that is not bounded by another owner's land on the person's side of the way.

### **Committee Amendment "A" (H-440)**

This amendment inserts into the Maine Revised Statutes, Title 33, section 469-A the actual effective date of Public Law 1987, chapter 385, which originally enacted section 469-A, to make explicit the proper application of that section.

### **Enacted Law Summary**

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Public Law 2011, chapter 312 allows a person who owns land in a subdivision that abuts a proposed, unaccepted way to own the entire width of the way if the land on the opposite side of the way is not part of the subdivision and allows the person to own an extension of that portion of the way beyond the boundary of the person's land that is not bounded by another owner's land on the person's side of the way.

**LD 1477      Resolve, To Review Issues Dealing with Regulatory Takings**

**RESOLVE 111  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CUSHING PLOWMAN	OTP-AM	H-600 S-335    COURTNEY

This bill establishes a cause of action for property owners when the impact of government regulation on real property imposes an undue burden on the value of private property and it streamlines the process for seeking relief in court. At any time before a judgment is entered, the government regulator may choose either to pay damages or compensation to the affected property owner or not to impose the regulation on that parcel.

### **Committee Amendment "A" (H-600)**

This amendment replaces the bill with a resolve that establishes the Committee to Review Issues Dealing with Regulatory Takings. The committee consists of 13 members including seven Legislators as well as representatives of various interested groups, appointed by the President of the Senate and the Speaker of the House, and the Attorney General or the Attorney General's designee.

The committee will study issues associated with property rights and the public welfare and report to the Joint Standing Committee on Judiciary by December 7, 2011.

### **Senate Amendment "A" To Committee Amendment "A" (S-335)**

This amendment reduces the size of the Committee to Review Issues Dealing with Regulatory Takings from 13 to 11 and revises the membership to include two Senators instead of three and three Representatives instead of four as proposed by Committee Amendment "A." It also eliminates authorization for reimbursement of expenses for public members and explicitly exempts the legislation from the requirements of Joint Rule 353.

### **Enacted Law Summary**

Resolve 2011, chapter 111 establishes the Committee to Review Issues Dealing with Regulatory Takings. The committee consists of 11 members including five Legislators as well as representatives of various interested groups, appointed by the President of the Senate and the Speaker of the House, and the Attorney General or the Attorney General's designee.

The committee will study issues associated with property rights and the public welfare and report to the Joint Standing Committee on Judiciary by December 7, 2011.

Resolve 2011, chapter 111 was finally passed as an emergency measure effective July 8, 2011.

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**LD 1480 An Act To Correct Errors and Inconsistencies in the Laws of Maine**

**PUBLIC 420  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-656 H-657 NASS H-667 NASS H-668 NASS H-669 NASS H-670 NASS H-674 NASS

This bill makes technical changes in the Laws of Maine.

**Committee Amendment "A" (H-656)**

This amendment includes both technical and substantive changes to the laws.

This amendment designates the provisions of the bill as Part A.

Part B includes technical corrections to sections originally printed in the bill.

Part C makes technical corrections.

Part D includes changes that may be considered substantive. Section 1 clarifies that the new subsection added by Public Law 2011, chapter 122 applies to only residential leases or contracts. Sections 2 to 5 correct technical issues in language adopted pursuant to Public Law 2011, chapter 60 passed earlier in the session and ensure that implementation of the law occur. Section 6 provides that the changes in Part D take effect 90 days after the adjournment of the First Regular Session of the 125th Legislature, which is the effective date of Public Law 2011, chapter 122 and chapter 60.

Part E makes substantive changes to carry out the intent of the Joint Standing Committee on Environment and Natural Resources concerning mercury-added thermostats. Part E includes a retroactive effective date provision to make the entire Part apply retroactively to June 3, 2011.

Part F corrects a clerical error in Public Law 2011, chapter 172 concerning teacher contracts. This is a substantive change that carries out the intent of the Joint Standing Committee on Education and Cultural Affairs. This Part takes effect 90 days after the adjournment of the First Regular Session of the 125th Legislature, which is when chapter 172 takes effect.

Part G corrects the membership changes in the Advisory Committee on College Savings enacted by Public Law 2011, chapter 150 as intended by the Joint Standing Committee on Education and Cultural Affairs. Part G deletes wording that was inadvertently retained and corrects the effective date and transition language.

**House Amendment "A" To Committee Amendment "A" (H-657)**

This amendment amends Committee Amendment "A" by adding a part that amends Public Law 2011, chapter 302 to

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correct inconsistent terminology concerning reciprocity in the enforcement of tolls.

### **House Amendment "E" To Committee Amendment "A" (H-670)**

This amendment corrects inconsistencies in terminology in Public Law 2011, chapter 402, which establishes a process to allow a child who is the subject of a permanency guardianship to be adopted by the permanency guardian.

This amendment adds an effective date section to make this correction take effect when Public Law 2011, chapter 402 takes effect, which is 90 days after the adjournment of the First Regular Session of the 125th Legislature.

### **House Amendment "B" To Committee Amendment "A" (H-667)**

This amendment corrects language relating to transfers of certain sales tax revenue to the State Transit, Aviation and Rail Transportation Fund to incorporate changes inadvertently omitted from Public Law 2011, chapter 209 and Public Law 2011, chapter 380, Part G.

### **House Amendment "D" To Committee Amendment "A" (H-669)**

This amendment deletes an unnecessary word inadvertently included in the description of the Department of Public Safety, Bureau of State Police's accident report database in Public Law 2011, chapter 390.

### **House Amendment "C" To Committee Amendment "A" (H-668)**

This amendment amends Committee Amendment "A" by adding a part that amends the option for state employees and teachers who return to work subsequent to their retirement to apply to those individuals who retire after September 1, 2011 rather than those who retire on or after July 1, 2011.

### **House Amendment "F" To Committee Amendment "A" (H-674)**

This amendment makes corrections to resolve conflicts and inconsistencies created by Public Law 2011, chapter 286 and Public Law 2011, chapter 406. Both chapters amended statutes concerning the licensing of electricians. Chapter 406 repealed the requirement that electrical companies be licensed as entities. This Part amends provisions in the electrician licensing laws to be consistent with that repeal by eliminating references to violations by firms and corporations. The requirements that apply to the different licenses for electricians are not affected.

### **Enacted Law Summary**

Public Law 420 includes both technical and substantive changes to the laws.

Parts A, B and C make technical corrections.

Part D includes changes that may be considered substantive. Section 1 clarifies that the new subsection added by Public Law 2011, chapter 122 applies to only residential leases or contracts. Sections 2 to 5 correct technical issues in language adopted pursuant to Public Law 2011, chapter 60 passed earlier in the session and ensure that implementation of the law occur. Section 6 provides that the changes in Part D take effect 90 days after the adjournment of the First Regular Session of the 125th Legislature, which is the effective date of Public Law 2011, chapter 122 and chapter 60.

Part E makes substantive changes to carry out the intent of the Joint Standing Committee on Environment and Natural Resources concerning mercury-added thermostats. Part E includes a retroactive effective date provision to make the entire Part apply retroactively to June 3, 2011.

Part F corrects a clerical error in Public Law 2011, chapter 172 concerning teacher contracts. This is a substantive change that carries out the intent of the Joint Standing Committee on Education and Cultural Affairs. This Part takes effect 90 days after the adjournment of the First Regular Session of the 125th Legislature, which is when chapter 172 takes effect.

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Part G corrects the membership changes in the Advisory Committee on College Savings enacted by Public Law 2011, chapter 150 as intended by the Joint Standing Committee on Education and Cultural Affairs. Part G deletes wording that was inadvertently retained and corrects the effective date and transition language.

Part H amends Public Law 2011, chapter 302 to correct inconsistent terminology concerning reciprocity in the enforcement of tolls. Part H applies retroactively to June 20, 2011.

Part I corrects inconsistencies in terminology in Public Law 2011, chapter 402, which establishes a process to allow a child who is the subject of a permanency guardianship to be adopted by the permanency guardian. Part G takes effect when Public Law 2011, chapter 402 takes effect, which is 90 days after the adjournment of the First Regular Session of the 125th Legislature.

Part J corrects language relating to transfers of certain sales tax revenue to the State Transit, Aviation and Rail Transportation Fund to incorporate changes inadvertently omitted from Public Law 2011, chapter 209 and Public Law 2011, chapter 380, Part G.

Part K deletes an unnecessary word inadvertently included in the description of the Department of Public Safety, Bureau of State Police's accident report database in Public Law 2011, chapter 390.

Part L amends the option for state employees and teachers who return to work subsequent to their retirement to apply to those individuals who retire after September 1, 2011 rather than those who retire on or after July 1, 2011, as was enacted by Public Law 2011, chapter 380, Part MMM.

Part M makes corrections to resolve conflicts and inconsistencies created by Public Law 2011, chapter 286 and Public Law 2011, chapter 406. Both chapters amended statutes concerning the licensing of electricians. Chapter 406 repealed the requirement that electrical companies be licensed as entities. This Part amends provisions in the electrician licensing laws to be consistent with that repeal by eliminating references to violations by firms and corporations. The requirements that apply to the different licenses for electricians are not affected. Part M is effective 90 days after the adjournment of the First Regular Session of the 125th Legislature.

Public Law 2011, chapter 420 was enacted as an emergency measure effective July 6, 2011 unless otherwise provided.

### **LD 1482     An Act To Provide That Private Transfer Fee Obligations on Real Property Are Void and Unenforceable**

**PUBLIC 200**

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

This bill provides that private transfer fee obligations on real property are void and unenforceable.

#### **Enacted Law Summary**

Public Law 2011, chapter 200 provides that private transfer fee obligations on real property are void and unenforceable.

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**LD 1496 An Act To Enforce Immigration Laws and Restrict Benefits to Legal Citizens**

**ONTP**

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

This bill requires a law enforcement officer who legally detains a person for a suspected criminal or civil violation to require that person to provide proof of citizenship in addition to name, address and date of birth. If a law enforcement officer has a reasonable suspicion that the person is an illegal alien, the officer must attempt to determine the immigration status of the person. A person illegally in the United States who has been convicted of a crime in this State, following completion of the punishment, must be transferred immediately to the custody of the United States Immigration and Customs Enforcement or the United States Customs and Border Protection.

This bill also requires an applicant for state assistance under the Temporary Assistance for Needy Families program, the MaineCare program or the food stamp program or for municipal assistance to be a legal resident of the United States and a resident of this State.

**LD 1502 An Act To Amend the Maine Business Corporation Act**

**PUBLIC 274**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST HASTINGS	OTP-AM	H-363

This bill amends the Maine Business Corporation Act to reflect recent changes made to the model act on which the Maine Business Corporation Act is based.

**Committee Amendment "A" (H-363)**

This amendment retains the provisions of the bill and does the following:

1. It provides that if more than one form of communication is used, a notice or other communication is effective when the earliest of the applicable methods occurs;
2. It specifically allows articles of incorporation and bylaws to authorize or require electronic notice of directors' meetings; and
3. It provides that the execution of a certificate or articles containing one or more false statements constitutes unsworn falsification under the Maine Revised Statutes, Title 17-A, section 453.

**Enacted Law Summary**

Public Law 2011, chapter 274 amends the Maine Business Corporation Act to reflect recent changes made to the model act on which the Maine Business Corporation Act is based. It also provides that the execution of a certificate or articles containing one or more false statements constitutes unsworn falsification under the Maine Revised Statutes, Title 17-A, section 453. Public Law 2011, chapter 274 provides that if more than one form of communication is used, a notice or other communication is effective when the earliest of the applicable methods occurs. It also specifically allows articles of incorporation and bylaws to authorize or require electronic notice of

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directors' meetings.

LD 1517 An Act To Amend the Uniform Principal and Income Act

PUBLIC 256

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ	OTP-AM	S-167

This bill incorporates the 2008 amendments to the Uniform Principal and Income Act approved by the National Conference of Commissioners on Uniform State Laws. The Uniform Comments as updated in 2008 are included for the changes to current law in the Uniform Principal and Income Act, the Maine Revised Statutes, Title 18-A, sections 7-749 and 7-765. According to the National Conference of Commissioners on Uniform State Laws, these amendments were drafted to clarify two discrete portions of the Uniform Principal and Income Act, sections 409 (Title 18-A, section 7-749 in Maine law) and 505 (Title 18-A, section 7-765 in Maine law), and a new transition section 606 (Title 18-A, section 7-774 in Maine law) to facilitate the technical implementation of the amendments. The amendments to Title 18-A, section 7-749 should serve to resolve issues brought about by IRS Revenue Ruling 2006-26 and assist separate funds within a trust in qualifying for the IRS estate tax marital deduction safe harbors. The Title 18-A, section 7-765 amendments should allow mandatory income trusts that own an entity to retain the proper amount of funds from distributions to meet their existing tax obligations.

Title 18-A, section 7-774 is added to provide that the changes in Title 18-A, section 7-749 apply on the date of the decedent's death for trusts not funded as of January 1, 2012, the effective date provided in this bill, and for trusts initially funded during 2012. For all other trusts, the changes apply on January 1, 2012.

### Committee Amendment "A" (S-167)

This amendment provides that an election that qualifies for a marital deduction under federal law also applies to property that will not be used to qualify for the federal marital deduction but will be needed for qualification as a Maine qualified terminable interest property.

### Enacted Law Summary

Public Law 2011, chapter 256 incorporates the 2008 amendments to the Uniform Principal and Income Act approved by the National Conference of Commissioners on Uniform State Laws. The Uniform Comments as updated in 2008 are included for the changes to current law in the Uniform Principal and Income Act, the Maine Revised Statutes, Title 18-A, sections 7-749 and 7-765. It clarifies two discrete portions of the Uniform Principal and Income Act, sections 409 (Title 18-A, section 7-749 in Maine law) and 505 (Title 18-A, section 7-765 in Maine law), and a new transition section 606 (Title 18-A, section 7-774 in Maine law) to facilitate the technical implementation of the amendments. Changes made to Title 18-A, section 7-749 serve to resolve issues brought about by IRS Revenue Ruling 2006-26 and assist separate funds within a trust in qualifying for the IRS estate tax marital deduction safe harbors.

Public Law 2011, chapter 256 allows mandatory income trusts that own an entity to retain the proper amount of funds from distributions to meet their existing tax obligations.

It adds Title 18-A, section 7-774 to provide that the changes in Title 18-A, section 7-749 apply on the date of the decedent's death for trusts not funded as of January 1, 2012 and for trusts initially funded during 2012. For all other trusts, the changes apply on January 1, 2012.

Public Law 2011, chapter 256 also provides that an election that qualifies for a marital deduction under federal law also applies to property that will not be used to qualify for the federal marital deduction but will be needed for

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qualification as a Maine qualified terminable interest property.

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

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

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

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P. 1190.

**LD 1531     An Act To Amend the Maine Human Rights Act Regarding Accessible Building Standards     PUBLIC 322**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASTINGS	OTP-AM	S-214

This bill amends the Maine Human Rights Act to update the accessible building requirements in the Maine Revised Statutes, Title 5, chapter 337, subchapter 5 in light of the adoption of the 2010 ADA Standards for Accessible Design by the federal Department of Justice on September 15, 2010.

**Committee Amendment "A" (S-214)**

This amendment makes four changes to the bill.

First, this amendment deletes the additional accessibility standards that would apply for alterations subject to the new standards when the alterations to an existing building exceed \$100,000.

Second, this amendment adjusts the threshold of construction or alterations that trigger barrier-free certification from \$50,000 to \$75,000. The \$50,000 threshold was established in 1995, and raising the threshold to \$75,000 roughly approximates the effect of inflation.

Third, this amendment applies the waiver for structural impracticability to all facilities that require mandatory plan review and certification that standards are met, rather than limiting the waiver to private entities as provided in the bill.

Fourth, this amendment authorizes the Joint Standing Committee on Judiciary to introduce a bill in the Second Regular Session of the 125th Legislature to implement any recommendations after a review of the new standards and a comparison with the federal standards that take effect March 15, 2012.

**Enacted Law Summary**

Public Law 2011, chapter 322 amends the Maine Human Rights Act to update the accessible building requirements in the Maine Revised Statutes, Title 5, chapter 337, subchapter 5 in light of the adoption of the 2010 ADA Standards for Accessible Design by the federal Department of Justice on September 15, 2010.

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Chapter 322 authorizes the Joint Standing Committee on Judiciary to introduce a bill in the Second Regular Session of the 125th Legislature to implement any recommendations after a review of the new standards and a comparison with the federal standards that take effect March 15, 2012.

**LD 1543     An Act To Allow Counties To Opt Out of Maine Judicial Marshal Service**

**MAJORITY  
(ONTP) REPORT**

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

This bill provides that if a county elects to have its court security services provided by its qualified deputy sheriffs, the State Court Administrator shall contract with that county sheriff's office for the performance of court security-related functions and services.

**Committee Amendment "A" (H-605)**

This amendment is the minority report of the Joint Standing Committee on Judiciary and incorporates a fiscal note.

This amendment was not adopted.

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

**Carried Over**

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

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

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P. 1190.

**LD 1576     An Act To Clarify the Award of Fees in Domestic Violence Cases**

**PUBLIC 303  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CAIN GERZOFISKY	OTP MAJ ONTP MIN	

This bill limits the award of court costs and reasonable attorney's fees to a defendant in a protection from abuse matter to cases when a judgment is entered against the plaintiff after a hearing where both parties are present and the

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court finds that the complaint is frivolous.

### **Enacted Law Summary**

Public Law 2011, chapter 303 limits the award of court costs and reasonable attorney's fees to a defendant in a protection from abuse matter to cases when a judgment is entered against the plaintiff after a hearing where both parties are present and the court finds that the complaint is frivolous.

Public Law 2011, chapter 303 was enacted as an emergency measure effective June 10, 2011.

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**SUBJECT INDEX**

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Not Enacted

LD 90	An Act Regarding Graphic Images Displayed with the Intention of Interfering with Civil Rights	ONTP
LD 116	An Act To Require a 24-hour Waiting Period prior to an Abortion	MAJORITY (ONTP) REPORT
LD 924	An Act To Educate Women on the Medical Risks Associated with Abortion	MAJORITY (ONTP) REPORT
LD 1457	An Act To Strengthen the Consent Laws for Abortions Performed on Minors and Incapacitated Persons	MAJORITY (ONTP) REPORT

*Arbitration and Mediation*

Enacted

LD 486	An Act To Clarify the Uniform Arbitration Act	PUBLIC 80
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*Attorney General*

Enacted

LD 1349	An Act To Amend the Laws Governing the Handling of Medical Examiner Cases	PUBLIC 182
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*Business & Nonprofit Organizations*

Enacted

LD 983	An Act To Amend the Maine Limited Liability Company Act	PUBLIC 113 EMERGENCY
LD 1502	An Act To Amend the Maine Business Corporation Act	PUBLIC 274

Not Enacted

LD 237	An Act To Make Public the Names of Members of Limited Liability Companies	ONTP
LD 448	An Act To Allow a Valid Claim against a Dissolved Corporation	MAJORITY (ONTP) REPORT

*Child Protection*

Enacted

LD 1152	An Act To Amend the Child and Family Services and Child Protection Act	PUBLIC 402
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Not Enacted

LD 1193	An Act To Strengthen Confidentiality Laws for Child Victims of Crime	ONTP
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*Confidentiality/Freedom of Access*

Enacted

LD 609	An Act To Declare Certain Records of the Maine Commission on Indigent Legal Services Confidential	PUBLIC 260
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LD 1082	An Act Concerning the Protection of Personal Information in Communications with Elected Officials	PUBLIC 264
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LD 1154	An Act To Implement the Recommendations of the Right To Know Advisory Committee	PUBLIC 320
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LD 1310	An Act To Amend the Laws Governing the Address Confidentiality Program	PUBLIC 195
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Not Enacted

LD 917	An Act To Protect Licensing Information Provided to the Department of Inland Fisheries and Wildlife and To Require a Review of Public Access to Other Personal Information	ONTP
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LD 1465	An Act To Amend the Laws Governing Freedom of Access	Carried Over
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*Constitutional Issues*

Not Enacted

LD 58	An Act To Prohibit Enforcement of the Federal Patient Protection and Affordable Care Act	ONTP
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LD 573	An Act To Protect the Civil Rights of Citizens	MAJORITY (ONTP) REPORT
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LD 1076	An Act To Protect Maine Laws under the United States Constitution and the Constitution of Maine	MAJORITY (ONTP) REPORT
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LD 1172	An Act To Prohibit Enforcement of Federal Laws in Violation of the Constitution of the United States	MAJORITY (ONTP) REPORT
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LD 1496	An Act To Enforce Immigration Laws and Restrict Benefits to Legal Citizens	ONTP
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*Courts and Court Procedure*

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LD 281	An Act To Create a 6-year Statute of Limitations for Environmental Violations	PUBLIC 350
LD 380	An Act To Enhance Enforcement of Civil Orders of Arrest	PUBLIC 177
LD 951	Resolve, Establishing the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts	RESOLVE 104
LD 1005	An Act To Clarify the Standard of Proof for Traffic Infractions	PUBLIC 156
LD 1103	An Act To Speed Recovery of Amounts Due the State	PUBLIC 181
LD 1104	An Act To Direct the Judicial Branch To Take Requisite Measures To Collect Fines and Penalties	PUBLIC 131
LD 1276	An Act To Increase Efficiency of the State Court Library Committee	PUBLIC 204
LD 1415	An Act To Update the Bankruptcy Laws To Incorporate Federal Changes Relating to Exemptions	PUBLIC 203 EMERGENCY

**Not Enacted**

LD 317	An Act To Improve Efficiency and Compliance within the Judicial System	ONTP
LD 665	An Act To Limit Claims of Exempt Property	ONTP
LD 791	An Act Regarding the Construction of New Court Facilities	ONTP
LD 877	Resolve, To Streamline the Judicial Process in Maine's Courts	ONTP
LD 1021	An Act To Transfer Jurisdiction of Traffic Adjudications	MAJORITY (ONTP) REPORT
LD 1053	An Act To Impose a Mandatory Minimum Award in Small Claims Actions	ONTP
LD 1093	An Act To Require the State To Pay Costs and Fees in Actions against Certain State Agencies	ONTP
LD 1272	An Act To Create a Family Ombudsman in the Judicial Branch and the Department of Corrections	MAJORITY (ONTP) REPORT
LD 1543	An Act To Allow Counties To Opt Out of Maine Judicial Marshal Service	MAJORITY (ONTP) REPORT
LD 1546	An Act To Amend the Laws Governing the Deference Afforded to Agency Decisions	Carried Over

*Courts, Justices and Judges*

Enacted

LD 39            An Act Related to Family Law Magistrates            PUBLIC 3

*Criminal Law and Procedure*

Enacted

LD 51            An Act Regarding Access to Sexually Explicit Material            PUBLIC 39

LD 373           An Act To Provide for Equal Rights of Appeal for the State and  
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Not Enacted

LD 824           An Act To Amend Certain Provisions Regarding Evidence under  
the Law Concerning Post-judgment DNA Analysis            ONTP

LD 1087           An Act To Modernize the Procedure for Appeals in Criminal  
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(ONTP) REPORT

*Domestic Violence/Protection from Abuse*

Enacted

LD 1365           An Act Regarding Protection Orders            PUBLIC 265

LD 1576           An Act To Clarify the Award of Fees in Domestic Violence Cases            PUBLIC 303  
EMERGENCY

*Elder Issues*

Enacted

LD 787           An Act To Establish an Elder Victims Restitution Fund            PUBLIC 241

LD 939           An Act To Enhance Mandated Reporting and Prosecution of  
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LD 1374           An Act To Protect Seniors and Incapacitated or Dependent  
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Enacted

LD 138           An Act To Allow a Nonresident To Perform a Single Marriage  
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Not Enacted

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LD 585	An Act To Amend the Child Custody Laws	ONTP
LD 811	An Act Relating to Child Support and Visitation by Noncustodial Parents	ONTP

*Family Law, Child Support*

Enacted

LD 202	An Act To Modify Child Support Enforcement Procedures	PUBLIC 34
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Not Enacted

LD 115	An Act To Amend the Laws Governing Child Support Enforcement	MAJORITY (ONTP) REPORT
LD 318	An Act To Require Consideration of Higher Education for Children during Divorce Deliberations	ONTP
LD 374	An Act To Change the Method of Calculation of Child Support	ONTP
LD 511	Resolve, Directing the Department of Health and Human Services To Examine the Issue of Revocation of Licenses for Nonpayment of Child Support	ONTP

*Foreclosure*

Enacted

LD 1360	An Act To Provide Prevailing Mortgagors Attorney's Fees in the Foreclosure Process	PUBLIC 269
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Not Enacted

LD 145	An Act To Protect Homeowners Subject to Foreclosure by Requiring the Foreclosing Entity To Provide the Court with Original Documents	Carried Over
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*Human Rights and Medical Rights*

Enacted

LD 744	An Act To Amend the Definition of "Service Animal" To Conform with Federal Law	PUBLIC 369
LD 1531	An Act To Amend the Maine Human Rights Act Regarding Accessible Building Standards	PUBLIC 322

Not Enacted

LD 31	An Act To Protect the Safety of Maine Children by Requiring the Express Consent of a Legal Guardian To Dispense Prescription Medication to a Minor	MAJORITY (ONTP) REPORT
LD 746	An Act Regarding the Consent of Minors for Mental Health and Substance Abuse Aid	MAJORITY (ONTP) REPORT
LD 785	An Act Relating to Identification of Service Animals	ONTP
LD 1046	An Act To Amend the Application of the Maine Human Rights Act Regarding Public Accommodations	MAJORITY (ONTP) REPORT
LD 1426	An Act Concerning Notification to an Employer of Misrepresented Medical Information under the Maine Human Rights Act	ONTP
LD 1530	An Act To Amend the Housing Provisions of the Maine Human Rights Act	Carried Over

### *Landlord and Tenant Issues*

#### Enacted

LD 1198	An Act To Reduce Regulations for Residential Rental Property Owners	PUBLIC 405
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#### Not Enacted

LD 1070	An Act To Expedite the Eviction Process and Lower the Eviction Workload of the Courts	ONTP
LD 1199	An Act To Expedite the Eviction Process in Certain Types of Cases	ONTP

### *Legal Services*

#### Enacted

LD 593	Resolve, Regarding Legislative Review of Chapter 3: Eligibility Requirements for Specialized Case Types, a Major Substantive Rule of the Maine Commission on Indigent Legal Services	RESOLVE 22 EMERGENCY
LD 602	An Act To Clarify the Method of Appealing Decisions of the Executive Director of the Maine Commission on Indigent Legal Services	PUBLIC 141

#### Not Enacted

LD 325	Resolve, To Examine the Representation of Families by Nonattorney Advocates at Special Education Due Process Hearings	VETO SUSTAINED
LD 551	An Act To Allow a Member, Manager or Authorized Employee of a Limited Liability Company To Appear for That Company in an Action for Eviction	MAJORITY (ONTP) REPORT

### *Mechanics's Liens*

Not Enacted

LD 335      **An Act To Allow Foresters, Soil Scientists and Geologists To Use Mechanics Liens**      **ONTP**

*Probate Code and Trust Code*

Enacted

LD 170      **An Act To Extend the Maximum Time Period for Powers of Attorney for Minors and Incapacitated Persons**      **PUBLIC 43**

LD 532      **An Act To Update the Maine Uniform Trust Code**      **PUBLIC 42**

LD 1186      **An Act To Amend the Probate Code Relating to the Authority of the Probate Court To Approve Transfers from a Protected Person's Estate**      **PUBLIC 155**

LD 1517      **An Act To Amend the Uniform Principal and Income Act**      **PUBLIC 256**

Not Enacted

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

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

LD 978      **An Act To Amend the Probate Code Regarding Powers of Attorney, Education of Children and Guardianship**      **Carried Over**

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

*Real Property, Property Rights and Eminent Domain*

Enacted

LD 3      **An Act To Clarify Joint Tenancy Reinstatement**      **PUBLIC 41**

LD 10      **An Act To Clarify the Method of Creating or Severing Joint Tenancy**      **PUBLIC 4**

LD 482      **An Act To Amend the Laws Dealing with Limitation of Actions**      **PUBLIC 124**

LD 1332      **An Act To Amend the Maine Condominium Act**      **PUBLIC 368**

LD 1473      **An Act To Clarify Rights-of-way Laws**      **PUBLIC 312**

LD 1477      **Resolve, To Review Issues Dealing with Regulatory Takings**      **RESOLVE 111  
EMERGENCY**

LD 1482      **An Act To Provide That Private Transfer Fee Obligations on Real Property Are Void and Unenforceable**      **PUBLIC 200**

**Not Enacted**

LD 526	An Act To Protect Persons Who Have Buildings on Leased Land	ONTP
LD 621	An Act To Clarify Adverse Possession	ONTP
LD 1101	An Act To Require Specificity in Deed Restrictions	ONTP
LD 1135	An Act To Protect the Rights of Property Owners	MAJORITY (ONTP) REPORT
LD 1448	An Act To Protect Time-share Condominium Associations	ONTP

***Statutes***

**Enacted**

LD 1480	An Act To Correct Errors and Inconsistencies in the Laws of Maine	PUBLIC 420 EMERGENCY
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***Torts and Immunity, General***

**Not Enacted**

LD 616	An Act To Clarify Landowner Liability for Environmental Damage Caused by Others	ONTP
LD 988	An Act Concerning Immunity for School Administrative Units in the Discharge of Their Responsibilities	ONTP
LD 1034	An Act To Amend the Law Regarding Comparative Negligence	MAJORITY (ONTP) REPORT
LD 1256	An Act Concerning Tort Claims and Governmental Entities	DIED BETWEEN HOUSES

***Torts and Immunity, Medical Malpractice***

**Not Enacted**

LD 1111	An Act To Ensure Timely Resolution of Professional Negligence Claims	LEAVE TO WITHDRAW
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***Torts and Immunity, Statutes of Limitation***

**Not Enacted**

LD 1353	An Act To Amend the Discovery Rule Laws	ONTP
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***Tribal-State Relations***

**Enacted**

<b>LD 194</b>	<b>An Act To Make Permanent the Direction of Fines Derived from Tribal Law Enforcement Activities to the Passamaquoddy Tribe and the Penobscot Nation</b>	<b>PUBLIC 426</b>
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**Not Enacted**

<b>LD 427</b>	<b>An Act To Extend the Same Privileges to the Wesget Sipu - Fish River Tribe as Are Extended to Other Maine Indian Tribes</b>	<b>ONTP</b>
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<b>LD 651</b>	<b>An Act To Improve Tribal-State Relations</b>	<b>Carried Over</b>
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<b>LD 655</b>	<b>An Act To Provide Tribal Representation in the Senate</b>	<b>ONTP</b>
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***Uncategorized***

**Enacted**

<b>LD 247</b>	<b>An Act To Amend the Gift Card Laws</b>	<b>PUBLIC 433</b>
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