

MAINE STATE LEGISLATURE

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STATE OF MAINE
116TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

MAY 1994

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**ONE HUNDRED AND SIXTEENTH LEGISLATURE
SECOND REGULAR SESSION**

**JOINT STANDING COMMITTEE
BILL SUMMARIES**

MAY 1994

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

The committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. All adopted amendments are listed, by paper number, together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various types of final action are abbreviated as follows:

PUBLIC XXX

P&S XXX

RESOLVE XXX

CON RES XXX

EMERGENCY

ONTP

INDEF PP

FAILED ENACTMENT

FAILED EMERGENCY ENACTMENT

FAILED MANDATE ENACTMENT

DIED BETWEEN BODIES

CONF CMTE UNABLE TO AGREE

VETO SUSTAINED

UNSIGNED

DIED ON ADJOURNMENT

Chapter # of enacted Public Law

Chapter # of enacted Private & Special Law

Chapter # of enacted Resolve

Chapter # of Constitutional Resolution passed by both Houses

Enacted law takes effect sooner than 90 days

Ought Not to Pass report accepted

Bill Indefinitely Postponed

Bill failed to get majority vote

Emergency bill failed to get 2/3 vote

Bill imposing local mandate failed to get 2/3 vote

House & Senate disagree; bill died

Committee of Conference unable to agree; bill died

Legislature failed to override Governor's Veto

Not signed by Governor within 10 days

Action incomplete when session ended; bill died

These summaries were prepared by the analyst or analysts assigned to the committee. If you have any suggestions or comments on the summaries, please let us know.

5581LHS

**LD 1514 An Act to Promote Family Financial Responsibility through
More Effective Child Support Enforcement**

ONTP

SPONSOR(S)
HARRIMAN

COMMITTEE REPORT
ONTP

AMENDMENTS ADOPTED

SUMMARY

The bill would have made child support enforcement laws more stringent. The bill would have made the following changes to the laws governing child support.

1. It would have required that applicants for professional licensure or registration comply with child support laws; permitted the Department of Human Services to report noncompliance to licensing boards; and prohibited issuance or renewal of a license to an applicant who is not in compliance.
2. It would have permitted the Department of Human Services to issue a responsible parent's employer a health insurance withholding order to enforce a responsible parent's obligation to obtain or maintain health insurance coverage for the parent's dependent children.
3. It would have permitted the Secretary of State to suspend the operator's license of a person who is not in compliance with a court order of child support.

Most of the bill was adopted in the Budget Bill, PL 1993, chapter 410, Part V. The bill was carried over from the First Regular Session.

LD 1522 An Act to Establish Limited Liability Companies

PUBLIC 718

SPONSOR(S)
DORE
CONLEY

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-980

SUMMARY

The bill established statutory language allowing the formation of limited liability companies. Part A created a new chapter in the Maine Revised Statutes, Title 31. Part B provided conforming amendments to other chapters of the statutes and clarified that the transfer of real property within a limited liability company is not a taxable event.

COMMITTEE AMENDMENT "A" (H-980) makes several technical and substantive amendments to the original bill. It corrects the title to appropriately state the name of the new entities as "limited liability companies." The amendment clarifies that the intent of the bill as amended allows the State to tax limited liability companies as the Federal Government does; that is, if the Federal Government treats a limited liability company as a partnership for tax purposes, the State will also. The amendment allows professionals currently covered by the Professional Services Corporation Act to form limited liability companies. The joint and several liability of that Act still applies to professionals organizing as limited liability companies. The amendment states that the common law liability applied to corporations also applies to limited liability companies. The amendment provides that voting by and distribution to the members of the limited liability company must be per capita, unless otherwise stated in the articles of organization or the operating agreement. The amendment allows oral operating agreements. The amendment provides for notices of authority or limitations on authority. The bill required payment of fair market value of a member's interest when the member withdraws. The amendment requires no payment unless otherwise agreed upon by the members. The amendment allows all members to have access to all records. This amendment allows the limited liability company to keep confidential trade secrets and other proprietary information. The amendment changes the term "certificate of organization" to "articles of organization" to more closely follow the draft uniform act being developed by the National Conference

of Commissioners on Uniform State Laws. The amendment makes the effective date of the limited liability company enabling legislation January 1, 1995. This will allow the Secretary of State an opportunity to prepare to administer the law. The amendment provides that members may not report tax losses from a limited liability company before April 1, 1996.

LD 1552 An Act to Amend the Laws Governing the Required Qualifications to Practice Law in the State

PUBLIC 643

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
FOSS	ONTP A	H-957
PEARSON	OTP-AM B	
PARADIS P	OTP-AM C	

SUMMARY

The bill amended the law governing admission of attorneys to the bar and created a rebuttable presumption that a person who has been convicted of a crime punishable by a year or more in prison should not be allowed to practice law. The presumption may be rebutted by evidence of a pardon or extraordinary circumstances surrounding the crime or by the passage of time coupled with evidence of complete rehabilitation.

The bill was carried over from the First Regular Session.

COMMITTEE AMENDMENT "A" (H-956) is a Minority Report. It would have replaced the bill, but still would have prohibited, in most cases, convicted felons from being admitted to practice law in this State. Not adopted.

COMMITTEE AMENDMENT "B" (H-957) is a Minority Report. It clarifies that the Board of Bar Examiners and the Supreme Judicial Court are free to consider any conviction in determining whether an applicant for the bar possesses good moral character. This is in addition to the presumption established by the bill that a person with a felony conviction does not meet the requirement of good moral character. The fact that a person with a felony conviction can rebut that presumption in any of the 3 ways listed in the original bill does not eliminate the discretion of the admitting authority to consider the existence of any conviction when determining whether an applicant possesses good moral character.

LD 1604 An Act to Clarify the Status of the Maine Indian Tribal-State Commission

PUBLIC 489

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
CASHMAN	OTP-AM	H-729
PEARSON		

SUMMARY

This bill removes the Maine Indian Tribal-State Commission from the listing of boards in Title 5 of the Maine Revised Statutes. The commission had been added to that listing in 1993 but should not have been because of its special joint tribal-state status under the Maine Indian Claims Settlement Act.

The COMMITTEE AMENDMENT (H-729) adds a fiscal note.

LD 1633 An Act to Amend the Provisions Relating to Mental Examination and Observation of Persons Accused of a Crime

PUBLIC 704

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
FAIRCLOTH	OTP-AM	H-897