

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

**STATE OF MAINE
117TH LEGISLATURE**

SECOND REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY**

JUNE 1996

MEMBERS:

Sen. S. Peter Mills III, Chair

Sen. Joan M. Pendexter

Sen. Sean F. Faircloth

Rep. Sharon Anglin Treat, Chair

Rep. William Lemke

Rep. Fred L. Richardson

Rep. Kyle W. Jones

Rep. Lloyd P. LaFountain III

Rep. Elizabeth Watson

Rep. Debra Plowman

Rep. Robert R. Hartnett

Rep. David R. Madore

Rep. Richard A. Nass

Rep. Frederick J. Moore III

Staff:

Margaret J. Reinsch, Principal Analyst

Lisa Copenhaver, Legislative Analyst

Office of Policy and Legal Analysis

Room 101/107/135, 13 State House Station

Augusta, ME 04333

(207)287-1670



**Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS**

13 State House Station, Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

**ONE HUNDRED SEVENTEENTH LEGISLATURE
SECOND REGULAR SESSION**

***Summary Of Legislation Before The Joint Standing Committees
June 1996***

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER</i>	<i>Bill carried over to Second Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Not signed by Governor within 10 days</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 4, 1996.

LD 1331 An Act Relating to Confidentiality of Records and the Prevention of Child Sexual Abuse

ONTP

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

LD 1331, a bill carried over from the First Regular Session, proposed to provide law enforcement officials access to certain records about teachers that are in the possession of a school administrative unit if those records would assist the officials in investigating potentially criminal activity. The bill also would have permitted the Department of Human Services to release information in child protective records to certain school administrators and to the directors of organizations or state agencies that provide direct services to children, employ persons to provide direct services to children or contract with the Department of Human Services or the Department of Mental Health and Mental Retardation to provide direct services to children.

Committee Amendment "A" (H-869) is the Minority Report. It would have replaced the bill, although it retained the central purpose of protecting children in school situations in which the Department of Human Services has substantiated information about a person working with those children.

The amendment would have created a new provision in the Child and Family Services and Child Protection Act. The new provision would have given the department discretionary authority to disclose certain information in the very specific circumstances. The child would have to be at risk of being abused based on substantiated information in the possession of the department; the department reasonably believed that the child could not be protected without disclosing the information to the superintendent of the school district or the chief administrator of a private school; and the department would have to notify the person before the information could be released unless the notification would increase the risk to the child. (Not adopted)

LD 1358 An Act to Establish Limited Liability Partnerships

PUBLIC 633

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARRIMAN DORE	OTP-AM	S-450 S-575

LD 1358, a bill carried over from the First Regular Session, proposed to allow the formation of limited liability partnerships under the Uniform Partnership Act. The bill also proposed conforming amendments to other chapters of the statutes and proposed to clarify that the transfer of real property within a limited liability partnership would not be not a taxable event.

Committee Amendment "A" (S-450) was the result of the collaborative effort of many people. The Joint Standing Committee on Judiciary requested in 1995 that the Secretary of State convene a study group of interested persons to identify and try to resolve issues raised by the proposal to allow the formation or election of limited liability partnerships in Maine. The amendment is the study group's draft, with modifications made by the Judiciary Committee.

The amendment proposed to allow a general partnership to preserve its traditional structure and any preexisting agreements between the partners, while offering the partners some protection from vicarious liability for claims arising from the conduct of the partnership's business by electing

LLP status. The amendment proposed provisions governing filing liability of professional LLPs and authorized use of names and initials.

The amendment would have added an appropriation and a fiscal note to the bill.

Senate Amendment "A" To Committee Amendment "A" (S-575) proposed to delete references to a deleted requirement that a limited liability partnership submit a list of all the partners upon the request of the Secretary of State.

Enacted law summary

Public Law 1995, chapter 633 allows general partnerships to elect limited liability status. The LLP election allows a general partnership to preserve its traditional structure and any preexisting agreements between the partners, while offering the partners some protection from vicarious liability for claims arising from the conduct of the partnership's business.

If a partnership fails to comply with certain filing requirements, it is the status of the partnership as an LLP, with all the associated protections from liability, that is revoked and not the partnership's ability to conduct business in this State. The partnership is also free to rescind its status as an LLP at any time.

The internal governance of the LLP is subject to the State's general partnership law and any partnership agreement between the parties.

Chapter 633 allows general partnerships formed for any legal purpose, whether by professionals or nonprofessionals, to make the LLP election. Under Maine law, professionals forming corporations are subject to the Maine Professional Service Corporation Act (PSCA). This chapter incorporates the liability provisions of PSCA that apply to professionals.

This chapter provides that a general partnership electing LLP status must indicate that status by using in its name either "Limited Liability Partnership," "L.L.P." or "LLP." This chapter revises the limited partnership law to allow the use of the abbreviation "L.P." or the designation of "LP" and revises the limited liability company law to allow the use of the abbreviation "L.L.C." or the designation "LLC."

This chapter establishes how certain filings of the LLP are to be executed. When an LLP fails to deliver its annual report or maintain a registered agent and office or otherwise fails to comply with the law, the Secretary of State may revoke its status as a limited liability partnership. Because LLP status is an election of a general partnership, revocation of that status causes only the loss of the protection from liability, not a suspension from conducting business as a partnership.

This chapter requires that the contact partner be disclosed in the initial certificate of limited liability partnership and that it be kept current. In addition, the names and addresses of all the partners must be included in the annual report.

**LD 1371 An Act Relating to Civil Actions, Providing for the
Defense of Assumption of Risk, Providing for Standards of
Liability in Product Liability Actions and Providing for
Standards and Procedures in Awarding Punitive Damages**

ONTP

Sponsor(s)
CIANCHETTE

Committee Report
ONTP

Amendments Adopted