

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
117TH LEGISLATURE**

**SECOND REGULAR SESSION**

**BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
JUDICIARY**

**JUNE 1996**

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*Sen. Joan M. Pendexter*

*Sen. Sean F. Faircloth*

*Rep. Sharon Anglin Treat, Chair*

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**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 &amp; 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&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; 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.

relationships or arrangements, whether or not sanctioned by another state, are not recognized in Maine as a marriage or marriage-equivalent.

LD 1448 would have made it a crime of sexual abuse of a minor for a person to engage in a sexual act or sexual contact with a minor of the same gender who is more than 3 years younger than the actor. Current law applies only when the actor is at least 5 years older, if the minor is between 14 and 16 years of age and an adult of any age can lawfully engage in sexual activity with a minor who is 16 or 17 years of age.

The Committee voted ONTP without a public hearing at the request of the sponsor.

**LD 1517**      **An Act to Create the Sunshine in Litigation Act**      ONTP

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1517, a bill carried over from the First Regular Session, proposed to prohibit courts from entering orders or approving agreements that would have the effect of concealing public hazards by suppressing information that would be helpful to the public in protecting themselves from public hazards.

**LD 1618**      **An Act to Reform the Standard of Fiduciary Prudence**      PUBLIC 525

<u>Sponsor(s)</u> AMERO	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-432
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LD 1618 proposed to remove constraints in order to allow fiduciaries to manage trust, estate and conservatorship portfolios in the same efficient way that private investors, investment advisors and custodians manage other assets. It would have created the Maine Uniform Prudent Investor Act.

The bill would have been effective January 1, 1997.

**Committee Amendment "A" (S-432)** proposed to correct 2 typographical errors.

***Enacted law summary***

Public Law 1995, chapter 525 removes constraints in order to allow fiduciaries to manage trust, estate and conservatorship portfolios in the same way that private investors, investment advisors and custodians manage other assets. The chapter creates the Maine Uniform Prudent Investor Act, as approved by the National Conference of Commissioners on Uniform State Laws in its 1994 Annual Conference.

The most significant change made by Chapter 525 is an alteration in the standard for judging whether fiduciaries have invested in accordance with the "prudent person rule." This chapter changes the focus of the prudence inquiry from each asset individually to the portfolio as a whole. This chapter also states a preference for diversification of investment portfolios in order to reduce risk. This chapter applies the new rules on prudent investing to conservators as well as to trustees.

Chapter 525 recognizes that personal representatives operate under different circumstances than trustees and conservators. To encourage cooperation by personal representatives with devisees, this chapter exculpates personal representatives who invest estate assets in accordance with the instructions of the devisees who are the beneficial owners of the assets.

Chapter 525 adopts the commissioners' proposed transitional rule, which is consistent with the transitional rules employed when the uniform Probate Code became effective in Maine.

Public Law 1995, chapter 525 is effective January 1, 1997.

**LD 1624      An Act to Update and Clarify the Corporate Laws      PUBLIC 514**

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-417
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LD 1624 proposed to establish a procedure for a nonprofit corporation to follow when the corporation wishes to authorize the use of a name similar to that of the corporation and filing proof of a resolution of its board of directors making the grant is not appropriate. The bill would have made technical corrections and change a cross-reference.

**Committee Amendment "A" (S-417)** would have allowed limited liability companies to state the minimum and maximum number of managers permitted in their articles of organization.

***Enacted law summary***

Public Law 1995, chapter 514 establishes a procedure for a nonprofit corporation to follow when the corporation wishes to authorize the use of a name similar to that of the corporation and filing proof of a resolution of its board of directors making the grant is not appropriate. The chapter also makes technical corrections and changes a cross-reference.

Chapter 514 allows limited liability companies to state a minimum and maximum number of managers in their articles of organization.

**LD 1625      An Act to Restore the Safety Defense to the Maine Human Rights Act      PUBLIC 511  
EMERGENCY**

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1625 proposed to add language to the Maine Human Rights Act referring to the "direct threat" defense of the federal Americans with Disabilities Act. It also would have restored a reference to the Maine Human Rights Act's long-standing "safety defense."

***Enacted law summary***

Public Law 1995, chapter 511 adds to the Maine Human Rights Act necessary references to the "direct threat" defense found in the federal Americans with Disabilities Act. The chapter also restores reference to the Maine Human Rights Act's long-standing "safety defense" which has been interpreted by the Maine Law Court in numerous cases in a way beneficial to both employers and employees.