

MAINE STATE LEGISLATURE

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**STATE OF MAINE
119TH LEGISLATURE**

SECOND REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY**

JULY 2000

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Sen. Sharon Anglin Treat

Sen. John W. Benoit

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ONE HUNDRED NINETEENTH LEGISLATURE
SECOND REGULAR SESSION

Summary Of Legislation Before The Joint Standing Committees
July 2000

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

The document is organized for convenient reference to information on bills considered by the committees. It is organized 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. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

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:

- CON RES XXX*..... Chapter # of Constitutional Resolution passed by both Houses
- CONF CMTE UNABLE TO AGREE*..... Committee of Conference unable to agree; bill died
- DIED BETWEEN BODIES*..... House & Senate disagree; bill died
- DIED IN CONCURRENCE*..... One body accepts ONTP report; the other indefinitely postpones the bill
- DIED ON ADJOURNMENT*..... Action incomplete when session ended; bill died
- EMERGENCY*..... Enacted law takes effect sooner than 90 days
- FAILED EMERGENCY ENACTMENT/FINAL PASSAGE*..... Emergency bill failed to get 2/3 vote
- FAILED ENACTMENT/FINAL PASSAGE*..... Bill failed to get majority vote
- FAILED MANDATE ENACTMENT*..... Bill imposing local mandate failed to get 2/3 vote
- NOT PROPERLY BEFORE THE BODY*..... Ruled out of order by the presiding officers; bill died
- INDEF PP*..... Bill Indefinitely Postponed
- ONTP*..... Ought Not To Pass report accepted
- OTP ND*..... Committee report Ought To Pass In New Draft
- OTP ND/NT*..... Committee report Ought To Pass In New Draft/New Title
- P&S XXX*..... Chapter # of enacted Private & Special Law
- PUBLIC XXX*..... Chapter # of enacted Public Law
- RESOLVE XXX*..... Chapter # of finally passed Resolve
- UNSIGNED*..... Bill held by Governor
- VETO SUSTAINED*..... Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 11, 2000.

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for religious entities, a state contract, including a contract with religious entities, may require nondiscrimination as a condition of the contract. It also proposed to clarify that the bill does not require schools to incorporate sexual orientation in curricula; does not require affirmative action based on sexual orientation; and does not require or prohibit the provision of employee benefits to an individual for the benefit of the individual's partner. Finally, the amendment proposed to change the wording of the referendum question to clarify it.

Committee Amendment "B" (S-625), one of the minority reports of the committee, proposed to further define the term "sexual orientation." It also proposed to clarify that the bill does not require schools to incorporate sexual orientation in their curricula, does not require affirmative action based on sexual orientation and does not require nor prohibit the provision of employee benefits to an individual for the benefit of the individual's partner. Finally, the amendment proposed to remove the section requiring approval of the voters at a referendum election.

Enacted law summary

Public Law 1999, chapter 629 proposes to amend the Maine Human Rights Act to prohibit discrimination on the basis of sexual orientation in employment, housing, public accommodation and credit. The law will become effective if approved by voters at a November 2000 referendum.

Religious entities, including certain nonprofit organizations and educational institutions, are exempt from the prohibition against discrimination on the basis of sexual orientation. However, a state agency may include nondiscrimination requirements in any contract with a religious entity. The law does not require schools to include sexuality or sexual orientation in their curricula, nor does it create affirmative action requirements or requirements for employers to provide domestic partner benefits.

LD 2245

An Act to Adopt the Model Revised Article 9 Secured Transactions

PUBLIC 699

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THOMPSON LONGLEY	OTP-AM	H-1109

LD 2245 proposed to adopt Revised Article 9 of the Uniform Commercial Code, adopted by the National Conference of Commissioners on Uniform State Laws. Part A of the bill proposed to repeal the Maine Revised Statutes, Title 11, Article 9 and enact a new Title 11, Article 9-A. Part B of the bill proposed to make necessary conforming amendments and recommended changes to the other articles of Uniform Commercial Code to provide consistency with the new Article 9-A. The bill proposed that Parts A and B take effect July 1, 2001. Part C proposed to give the Secretary of State rulemaking authority to adopt rules prior to July 1, 2001 to carry out Article 9-A as soon as it is in effect.

Committee Amendment "A" (H-1109) proposed to incorporate recommended changes to Revised Article 9 of the Uniform Commercial Code made by the Office of the Secretary of State and the Maine State Bar Association's Bar Committee Report on Revised Article 9. It also proposed many technical corrections to the original bill, as well as technical and some minor substantive changes to the Uniform Act recommended by the National Conference of Commissioners on Uniform State Laws after the original bill was printed.

The amendment proposed several nonuniform changes. Nonuniform amendments are accompanied by Maine Comments to explain the deviations.

Part D proposed updated cross-references. It also proposed to amend Title 29-A, section 702 by removing the relation back provision in the law governing title to motor vehicles, consistent with the revised operation of sections 9-1303 and 9-1311, and instead incorporating by reference the new, more complex rules found in Part 3 of Article 9-A. The proposed exception to this incorporation is to retain the special treatment Maine has for out-of-state, over-the-road trailers that use Maine as a "safe harbor" for registrations and titling. The special rule proposed to validate a Maine title until it is, in fact, surrendered. This is a nonuniform provision. The uniform rule would allow a newly issued, fraudulent, foreign title to trump a Maine title.

Enacted law summary

Public Law 1999, chapter 699 enacts changes recommended by the National Conference of Commissioners on Uniform State Laws as revisions to the Uniform Commercial Code, Article 9, on secured transactions. Changes recommended by the Office of the Secretary of State and the Maine State Bar Association's Bar Committee Report on Revised Article 9 are included. Several of the changes incorporated are nonuniform; that is, Maine Article 9-A will not be exactly the same as the Uniform Act. Nonuniform provisions are accompanied by Maine Comments to explain the deviations. The "safe harbor" provisions in Title 29-A for out-of-state, over-the-road trailers are updated.

LD 2267

An Act to Amend the Definition of Marital Property

PUBLIC 665

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THOMPSON	OTP-AM MAJ ONTP MIN	H-917

LD 2267 proposed to amend the definition of "marital property" to specifically exclude any increase in the value of an intangible asset, such as stocks or bonds, if the asset was acquired prior to the marriage or by gift, bequest, devise or descent.

Committee Amendment "A" (H-917) proposed to replace the bill. It proposed to exclude the increase in value of nonmarital property from the definition of marital property if no marital effort or money is expended. The amendment also proposed to expand the exception to the marital property presumption to include nonmarital property acquired during the marriage.

Enacted law summary

Public Law 1999, chapter 665 revises the definition of marital property to respond to the decisions of Clum v. Graves, 1999 ME 77 and Harriman v. Harriman, 1998 ME 108 and makes two changes to the operation of Maine's marital property law. First, it excludes the increase in value of nonmarital property from the definition of marital property if no marital effort or money is expended. The portion of the increase resulting from the reinvestment of the property's income or appreciation during the marriage remains nonmarital, so long as neither spouse had a substantial and active role in the management, preservation or improvement of the property during the marriage. On the other hand, if funds invested in a spouse's nonmarital account involved the substantial active involvement of either or both spouses, the increase in