

MAINE STATE LEGISLATURE

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STATE OF MAINE
119TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

JULY 2000

MEMBERS:

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Sen. Sharon Anglin Treat

Sen. John W. Benoit

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Staff:

Margaret J. Reinsch, Esq., Principal Analyst

Deborah C. Friedman, Esq., Senior Legislative Analyst

Office of Policy and Legal Analysis

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 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.

David E. Boulter, Director
 Offices Located in the State House, Rooms 101 & 107

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

value may be found to be marital property. The determination of what constitutes "substantial and active" involvement by a spouse will depend upon the type of management, maintenance or improvement customarily associated with the type of property at issue. Chapter 665 also expands the exception to the marital property presumption to include nonmarital property acquired during the marriage. The predecessor provision applied to only the "increase in value of property acquired prior to the marriage." This change modifies this limiting language so that it now applies to all nonmarital property, whether acquired prior to marriage or during the marriage through gift, bequest, devise or descent or property excluded by agreement of the parties. Public Law 1999, chapter 790, Part I makes the changes in chapter 665 apply to pending cases.

LD 2268 **An Act to Ensure that Reports Commissioned by the State are Submitted in Writing or Other Reproducible Format** **PUBLIC 623**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CHICK LIBBY	OTP-AM	H-953

LD 2268 proposed to require any report commissioned in whole or in part by the State or any of its political subdivisions to be reduced to writing and delivered to the State or political subdivision that commissioned the report. This bill also proposed to amend the definition of "public records" in freedom of access law to include reports.

Committee Amendment "A" (H-953) proposed to replace the bill. It proposed to apply to state contracts for \$10,000 or more that include a report back to the contracting agency, to require that the contract include a requirement that the report be in writing or in another reproducible nontransitory medium, to require that the report include the substantive conclusions disclosed to the agency contracting for the report, and to require that the report also either include a summary of the information and data on which the conclusions were based or identify the source of the information and data. The amendment proposed that the agency maintain a copy of the report in its custody.

Enacted law summary

Public Law 1999, chapter 623 requires that state contracts for \$10,000 or more require a report back to the contracting agency, and that the report must be in writing or in another reproducible nontransitory medium. Electronic or other media may be used as long as the report can be reproduced. The report must include the substantive conclusions disclosed to the agency contracting for the report. It must also either include a summary of the information and data on which the conclusions were based or identify the source of the information and data. The agency must maintain a copy of the report in its custody.

LD 2271 **An Act to Clarify the Laws Governing Service of Protection from Harassment Orders in Court** **PUBLIC 542 EMERGENCY**

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