

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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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:

<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 IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</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/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</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>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>OTP ND/NT</i>	<i>Committee report Ought To Pass In New Draft/New Title</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>Bill held by Governor</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 August 11, 2000.

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

<u>Sponsor(s)</u> THOMPSON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-817
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LD 2285 proposed to remove language from the Maine Probate Code governing the proceedings for reviewing trustees to return it to the version contained in the Uniform Probate Code, amending a nonuniform section so as to reflect current market practices.

Committee Amendment "A" (H-817) proposed to add specific factors that the court may include as guides in its determination whether compensation paid to a testamentary trustee or to other persons employed by the testamentary trustee to provide services is reasonable. The factors are the same as apply to personal representatives under the Maine Revised Statutes, Title 18-A, section 3-721. The amendment proposed to specifically allow compensation calculated on a percentage basis as long as the compensation is reasonable.

Enacted law summary

Public Law 1999, chapter 571 adds specific factors that the court may include as guides in determining whether compensation paid to a testamentary trustee or to other persons employed by the testamentary trustee to provide services is reasonable. The factors are the same as apply to personal representatives under the Maine Revised Statutes, Title 18-A, section 3-721. Because the Supreme Judicial Court in Estate of Davis, 509 A.2d 1175 (Me. 1986) interpreted the order of the factors as implying the relative importance of each factor in determining the reasonableness of fees charged by a personal representative, chapter 571 clearly states that the order does not imply that one factor is necessarily more important than any other factor. Chapter 571 specifically allows compensation calculated on a percentage basis as long as the compensation is reasonable.

<u>Sponsor(s)</u> THOMPSON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-1032
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LD 2286 proposed to make a jury trial unavailable in a proceeding to establish paternity. The bill also proposed to amend the definition of "applicant" to include those persons receiving services under the Maine Revised Statutes, Title 19-A, section 2108.

Committee Amendment "A" (H-1032) proposed to amend the bill to keep paternity actions within the jurisdiction of both the Superior and District Courts.

Enacted law summary

Public Law 1999, chapter 704 provides that a jury trial is not available in a proceeding to establish paternity. Federal law mandates this change. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, Section 331, 110 Stat. 2105 amended Title 42 of the