

# 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:***

***Sen. Susan W. Longley, Chair***

***Sen. Sharon Anglin Treat***

***Sen. John W. Benoit***

***Rep. Richard H. Thompson, Chair***

***Rep. Thomas Bull***

***Rep. Charles C. LaVerdiere***

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***Rep. Donna M. Loring***

***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](http://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

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|-------------------------------|--|-----------------------------------|--|------------------------------------|
| <u>Sponsor(s)</u><br>THOMPSON |  | <u>Committee Report</u><br>OTP-AM |  | <u>Amendments Adopted</u><br>H-817 |
|-------------------------------|--|-----------------------------------|--|------------------------------------|

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.

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| <u>Sponsor(s)</u><br>THOMPSON |  | <u>Committee Report</u><br>OTP-AM |  | <u>Amendments Adopted</u><br>H-1032 |
|-------------------------------|--|-----------------------------------|--|-------------------------------------|

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

United States Code, Section 666(a)(5) to mandate that each state must have in effect procedures providing that the parties to an action to establish paternity are not entitled to a jury trial.

Chapter 704 also amends the definition of "applicant" to include those persons receiving child support enforcement services under the Maine Revised Statutes, Title 19-A, section 2108.

**LD 2290**

**An Act to Improve Business Entity Filings and Authorize Mergers,  
Consolidations and Conversions of Various Business Entities**

**PUBLIC 638**

|                               |  |                                   |  |                                    |
|-------------------------------|--|-----------------------------------|--|------------------------------------|
| <u>Sponsor(s)</u><br>THOMPSON |  | <u>Committee Report</u><br>OTP-AM |  | <u>Amendments Adopted</u><br>H-965 |
|-------------------------------|--|-----------------------------------|--|------------------------------------|

LD 2290 proposed to authorize mergers and consolidations between corporations and other business entities; to permit same-entity and inter-entity mergers and consolidations for business entities other than corporations; and to set a fee for these new filings. The bill proposed to allow any business entity other than a general partnership to convert to another type of business entity.

In order to provide consistency in certain fee amounts, this bill proposed to increase the amendment fee for all business corporations; increase the fee for mergers of foreign business corporations; and decrease the amendment fees, as well as the initial fee for organizing or qualifying a limited liability company, limited partnership and limited liability partnership.

The bill proposed to allow limited liability companies, limited liability partnerships and limited partnerships to use an assumed name that does not include the respective designations "LLC," "LLP" and "LP" as part of the name. The bill also proposed to eliminate the rights of 3rd parties to request disclosure of the names of "limited" owners of limited liability companies, limited liability partnerships and limited partnerships. This bill proposed to clarify that there is no right for a withdrawing member of a limited liability company to demand payment for a membership interest, but also proposed to clarify how the membership interest would be paid if the limited liability company elects to pay such withdrawing member's interest.

**Committee Amendment "A" (H-965)** proposed to broaden the definition of "other business entity" so that the law allowing business entities to convert to other forms and to merge or consolidate will apply to all types of business entities in existence now or created in the future. It proposed to clarify that the shareholder of a corporation participating in a conversion, merger or consolidation retains the right to dissent and be bought out to the same extent as if the transaction were a merger between 2 corporations. It proposed to require that a transaction be approved specifically by any owner whose limited liability would be converted to personal liability by the transaction.

The amendment proposed to clarify that the general law relating to transactions involving limited liability companies and limited partnerships does not supersede laws relating to specific types of business entities, such as banking and insurance companies. It proposed to exempt certain real estate transfers from the transfer tax. Finally, the amendment proposed to change the fee structure in the bill. As in the bill, the new fee structure would lower the fees for noncorporate entities to make them equal to the comparable corporate fees. To compensate for the loss of revenue from the decrease in noncorporate entity filings, the amendment proposed to increase the one-time incorporating fee for domestic corporations from \$105 to \$125, and provide that fees for foreign business entity filings are double that of the comparable fees for domestic entities. The amendment proposed that fees for filing amendments for domestic corporations remain at the same level as in current law, rather than increasing as proposed in the bill.