

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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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

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

Sponsor(s)
THOMPSON

Committee Report
OTP-AM

Amendments Adopted
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.

Enacted law summary

Public Law 1999, chapter 638 allows corporations, partnerships and other business entities to merge or consolidate with each other and to convert to a different legal form. It sets forth the process that must be followed to accomplish the merger, consolidation or conversion and the effect of such changes on the powers, duties and property rights of the resulting business entity. The law exempts deeds made pursuant to mergers or consolidations from the real estate transfer tax if the transfer meets certain criteria. The law also changes the fees for filing of business entity documents with the Secretary of State. It increases the fee for filing Articles of Incorporation for domestic corporations from \$105 to \$125, reduces the fees for filing documents relating to limited partnerships, limited liability companies and limited liability corporations to make them equal to the fees for filing comparable business corporation documents, and provides that foreign entity filing fees are twice the amount of the comparable domestic entity fees.

LD 2307 An Act to Protect the Health and Well-being of a Nursing Infant of Separated or Divorcing Parents PUBLIC 702

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CATHCART	OTP-AM MAJ ONTP MIN	S-661

LD 2307 proposed to add the fact of whether the mother is breast-feeding an infant as an additional factor in the list of several factors a judge must consider in deciding parental rights and responsibilities.

Committee Amendment "A" (S-661) proposed to clarify that when a court is awarding parental rights and responsibilities and is considering the factors to determine the best interest of the child, the factor of whether a child is being breast-fed must be considered, but only if the child is under one year of age.

Enacted law summary

Public Law 1999, chapter 702 provides that when a court is awarding parental rights and responsibilities and is considering the factors to determine the best interest of the child, the factor of whether a child is being breast-fed must be considered if the child is less than one year of age.

LD 2314 An Act to Clarify the Maine Human Rights Act Concerning Compensatory and Punitive Damages ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MURRAY	ONTP	

Current law specifies that, in cases of intentional employment discrimination, a person may recover punitive and compensatory damages under the Maine Human Rights Act only if the person cannot recover those damages under federal human rights legislation governing race. LD 2314 proposed that such recovery be permissible only if the person is unable to recover under the federal human rights legislation governing race or general federal human rights laws governing intentional employment discrimination.