

# MAINE STATE LEGISLATURE

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*State Of Maine  
120th Legislature*

*Second Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Judiciary*

*May 2002*

**Members:**

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*Sen. Michael J. McAlevey*

*Sen. Norman K. Ferguson, Jr.*

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**120th Legislature**  
**Second Regular Session**

**Summary Of Legislation Before The Joint Standing Committees**  
**May 2002**

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name 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
PASSED	Joint Order passed in both bodies
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 July 25, 2002.

**Patrick T. Norton, Interim Director**  
**Offices located in Room 215 of the Cross Office Building**

## Joint Standing Committee on Judiciary

LD 202

An Act to Improve Maine's Jail Diversion Programs

PUBLIC 520

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CANAVAN	OTP-AM MAJ	H-829
DAGGETT	ONTP MIN	

LD 202 proposed to authorize the Judicial Department to establish mental health treatment programs in the Superior Courts and District Courts.

**Committee Amendment "A" (H-829)**, the majority report of the Joint Standing Committee on Judiciary, proposed to replace the bill to provide enabling legislation for the Judicial Department to apply for and receive funding from sources other than the State to establish mental health treatment courts. The amendment proposed that if the Judicial Department receives funding, before implementation of mental health treatment courts the Judicial Department must report to the joint standing committee of the Legislature having jurisdiction over judiciary matters information about the funding and the plans for the mental health treatment court.

### *Enacted law summary*

Public Law 2001, chapter 520 provides enabling legislation for the Judicial Department to apply for and receive funding from sources other than the State to establish mental health treatment courts. If the Judicial Department receives funding, before implementation of mental health treatment courts the Judicial Department must report to the joint standing committee of the Legislature having jurisdiction over judiciary matters information about the funding and the plans for the mental health treatment court.

**LD 361**

An Act to Adopt the Model Business Corporation Act in Maine

PUBLIC 640

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON	OTP-AM	H-1037
EDMONDS		

LD 361 was a concept draft that proposed to amend the State's business corporation act following a study by the Corporate Law Revision Committee of the Business Law Section of the Maine State Bar Association. That committee proposed to use the most recent version of the Model Business Corporation Act, promulgated by the Committee on Corporate Laws of the Business Law Section of the American Bar Association, and to conform it to existing Maine practices and procedures where applicable.

**Committee Amendment "A" (H-1037)** proposed to replace the bill.

It proposed to repeal the Maine Revised Statutes, Title 13-A and replace it with a new Title 13-C, entitled the "Maine Business Corporation Act." The language of Title 13-C was developed by the Corporate Law Revision Committee of the Business Law Section of the Maine State Bar Association, in association with the Office of the Secretary of State.

Among the significant provisions of the proposed legislation are the following. The proposed Maine Business Corporation Act proposed to:

## **Joint Standing Committee on Judiciary**

1. Simplify the requirements for filing documents with the Secretary of State; establish rules for electronic filing; and simplify the Secretary of State's process for reviewing proposed corporate names;
2. Spell out limits on a corporation's ability to limit or eliminate the personal liability of a director;
3. Increase flexibility for corporations to manage financial matters by eliminating requirements relating to "legal capital," "common" or "preferred" shares, "par value" and "treasury shares";
4. Establish an "opt-in" provision for preemptive rights;
5. Provide greater flexibility for privately held corporations to use shareholder agreements;
6. Remove the current requirement for a minimum number of directors;
7. Provide greater specificity and clarity regarding the standards of conduct required of directors and officers, focusing on the manner in which duties are performed;
8. Provide greater specificity and clarity regarding indemnification of directors and officers;
9. Enact specific provisions regarding domestication and conversion of business entities;
10. Grant general authority to corporations to amend their articles of incorporation, rather than listing specific permissible amendments; require all amendments to be approved by the board of directors before being submitted to the shareholders; and authorize the board of directors to make nonsubstantive amendments without a shareholder vote; and
11. Set standards regarding the quantity of shareholder approval required for certain transactions and the ability of the corporation to elect a different standard.

Among the differences between the Model Business Corporation Act and this Act are the following. The proposed Maine Business Corporation Act proposed to:

1. Continue the office of clerk and allow corporate records to be kept at the office of the clerk;
2. Preserve the streamlined process for forming "directorless" corporations, managed directly by shareholders;
3. Carry forward the concept of "close corporations" and several provisions specific to such corporations;
4. Continue to allow directors to consider the interests of certain "other constituencies," including employees and the community, in carrying out their duties and preserve the presumption that a 2/3 vote is necessary to remove a director in mid-term;
5. Continue the Maine law stating that a director vote is not required for certain corporate actions if the shareholders by unanimous consent approve the matter;

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6. Preserve the application of existing Maine law, Title 13-A, sections 611-A and 910 to the acquisition of a significant interest in publicly held Maine corporations; and
7. Continue Maine practices and rules regarding the filing and content of annual reports.

The amendment also proposed to repeal the current Professional Service Corporation Act and replace it with a revised Professional Services Corporation Act, based on language developed by the American Bar Association as a supplement to the Model Business Corporation Act. The revised Act proposed to clarify which professions are subject to the Act and which professions may elect to be subject to the Act. It also proposed to allow the formation of corporations by members of more than one profession, if the licensing authorities of those professions allow such practices. The Act proposed to retain the same provisions regarding shareholder liability as in current law and allow a minority of director positions to be held by nonprofessionals. The Act also proposed rules for foreign professional corporations that perform professional services in the State and proposed to allow mergers with domestic or foreign professional service corporations and business entities under certain circumstances.

### *Enacted law summary*

Public Law 2001, chapter 640 repeals Title 13-A, the current Maine Business Corporation Act enacted in 1971, and replaces it with a new Title 13-C, also entitled the "Maine Business Corporation Act." It also repeals the current Professional Service Corporation Act and replaces it with a revised Professional Service Corporation Act.

The new business corporation act, Title 13-C, was developed by a revision committee of the Maine State Bar Association in association with the Office of the Secretary of State. The new act consists primarily of the 1984 Model Business Corporation Act developed by the American Bar Association, updated and modified by the revision committee as necessary to preserve important unique aspects of Maine law. Changes to corporate law are too numerous to summarize; please refer to OPLA Bill Summaries or a copy of the public law itself for additional information.

The revised Professional Service Corporation Act was also developed by the revision committee and is based on language developed by the American Bar Association as a supplement to the Model Business Corporation Act. The revised Act clarifies which professions are subject to the Act, allows multi-profession corporations if the licensing authorities of those professions allow such practices and allows a minority of director positions to be held by nonprofessionals. The Act also provides rules for foreign professional corporations and allows mergers with domestic or foreign professional service corporations and business entities under certain circumstances.

**LD 1573**

**An Act to Enact the Uniform Principal and Income Act of 1997**

**PUBLIC 544**

Sponsor(s)  
NORBERT  
RAND

Committee Report  
OTP-AM

Amendments Adopted  
H-851

LD 1573 proposed to enact the Uniform Principal and Income Act of 1997, adopted by the National Conference of Commissioners on Uniform State Laws in 1997. It proposed to provide rules for handling trust principal, income, receipts and disbursements.