

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 741

H.P. 547

House of Representatives, February 14, 2003

An Act To Expand the Powers and Authority of Case Management Officers in the Family Division

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TARDY of Newport.
Cosponsored by Representatives: BRYANT-DESCHENES of Turner, BULL of Freeport,
CARR of Lincoln, DUPREY of Hampden, NORBERT of Portland, SHERMAN of Hodgdon.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 4 MRSA §183**, as enacted by PL 1997, c. 269, §1 and affected by §2, is amended to read:

6 **§183. Family Division of District Court**

8 There is established within the District Court a Family Division that has jurisdiction over family matters filed in
10 District Court. The Family Division shall provide a system of justice that is responsive to the needs of families and the
12 support of their children. The Supreme Judicial Court may adopt administrative orders and court rules governing the practice,
14 procedure and administration of the Family Division. These practices and procedures must include, but are not limited to,
16 education for the parties, case management and referral services to mediation and other alternate dispute resolution techniques.

18 **1. Family law magistrates.** The Chief Judge of the District Court, with the approval of the Chief Justice of the Supreme
20 Judicial Court, shall employ family ~~ease-management-officers~~ law magistrates. In selecting family ~~ease-management-officers~~ law
22 magistrates, the Chief Judge shall give proper consideration to achieving statewide geographical representation in the Family
24 Division.

26 A. Family ~~ease-management-officers~~ law magistrates must be members of the Bar of this State and must have experience in
28 the area of family law. Other qualifications may include interest, training or experience in mediation and other
30 alternate dispute resolution techniques, domestic violence, child development, family dynamics and case management.

34 B. Family ~~ease-management-officers~~ law magistrates shall devote themselves solely to the official duties of the
36 position. They may not engage in the private practice of law or in any employment, occupation or business interfering
38 with or inconsistent with the discharge of their duties. The Chief Judge of the District Court shall determine the
40 salary of the family ~~ease--management--officers~~ law magistrates.

42 C. Family ~~ease--management--officers~~ law magistrates are governed by the Maine Code of Judicial Conduct. Family ~~ease~~
44 ~~management-officers~~ law magistrates serve at the pleasure of the Chief Judge of the District Court.

48 D. Family ~~ease-management-officers~~ law magistrates shall employ appropriate case management techniques and have
50 jurisdiction to hear and dispose of the following matters:

2 (1) Interim orders in actions involving the
4 establishment, modification or enforcement of child
support;

6 (2) Interim orders in actions involving divorce, legal
8 separation, paternity or parental rights, including
interim orders in post-judgment proceedings arising out
10 of these actions, except that a contested motion
concerning interim parental rights and
12 responsibilities, excluding interim child support
orders, may be determined by the family ease-management
14 ~~officer~~ law magistrate only if both parties consent to
determination of the issue or issues in dispute by the
16 family ease-management-officer law magistrate;

18 (3) Final orders in any of the matters included in
subparagraphs (1) and (2) when the proceeding is
20 uncontested;

22 (4) Final orders in a contested proceeding when child
support is the only contested issue; and

24 (4-A) Final orders in divorces involving any issue
26 that the parties have consented to submit to the family
law magistrate for determination;

28 (4-B) Applications for writs of habeas corpus to
30 facilitate the attendance of proceedings by and return
of a party who is incarcerated;

32 (4-C) Requests for access to confidential Department
34 of Human Services child protective records. The family
law magistrate may review records in camera to
36 determine access; and

38 (5) Other actions assigned by the Chief Judge of the
District Court.

40 E. Interim orders in any of the matters included in
42 paragraph D, subparagraphs (1) and (2) are effective
immediately and are subject to de novo review by a judge at
44 the final hearing. Final orders in any of the matters
included in paragraph D, subparagraphs (3) and (4) are
46 subject to appellate review in the same manner as any final
order of the District Court. The family ease-management
48 ~~officer~~ law magistrate shall inform the parties of the
rights of review established in this paragraph.

50 F. Family law magistrates have the same contempt powers as
judges and justices of the Judicial Department.

2 This bill authorizes the family law magistrates to issue
4 habeas corpus writs when a party is incarcerated in order to
 secure the presence of that party to a proceeding, and to return
6 the party to the place of incarceration after the proceeding.

8 This bill also gives the family law magistrates jurisdiction
10 to hear and issue final orders in divorces covering any issues to
 which the parties have consented that the family law magistrate
 decide.

12 The Chief Judge of the District Court may authorize the
14 family law magistrates to wear robes when presiding over any
 proceeding. Family law magistrates are given the power of
 contempt that judges and justices currently have.