

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 530

S. P. 178

In Senate, February 3, 1971

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Clifford of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to Board of Examiners for the Examination of Applicants
for Admission to the Bar and Applicants for Such Examination.

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

Sec. 1. R. S., T. 4, §§ 801, 802, 803, repealed and replaced. Section 801, section 802, as amended by section 1 of chapter 441 of the public laws of 1967, and section 803, all of Title 4 of the Revised Statutes, are repealed and the following enacted in place thereof:

§ 801. Board of examiners; tenure; compensation; meetings

The Board of Examiners for the Examination of Applicants for Admission to the Bar, as heretofore established and hereinafter in this chapter called the "board," shall be composed of 5 competent lawyers of the State; one member of said board shall be appointed annually by the Governor on the recommendation of the Chief Justice of the Supreme Judicial Court and shall hold office for the term of 5 years beginning on the first day of September of each year. Vacancies occurring from death, resignation, removal or inability to act shall be filled in like manner for the unexpired term. In addition to the 5 members of the board, 2 additional members of the board shall be appointed, in the first instance one for a term ending August 31, 1973 and one for a term ending August 31, 1975, by the Governor on the recommendation of the Chief Justice of the Supreme Judicial Court, and that after the initial terms, each subsequently appointed additional member shall hold office for the term of 5 years beginning on the first day of September of the year concerned. Vacancies occurring from death, resignation or removal or inability to act of an additional member shall be filled in like manner for the unexpired term. The additional members of the board shall assist the board in

the performance of its duties from time to time as the chairman of the board shall deem appropriate. The board shall hold at least 2 sessions annually at such times and places in the State as the board shall determine and the Supreme Judicial Court shall approve for the purpose of examining all applicants for admission to the bar, as to their legal learning and general qualifications to practice in the several courts of the State as attorneys and counselors at law and solicitors and counselors in chancery. Upon such examination being had, the board shall issue to each applicant who shall pass the required examinations and satisfy all other requirements of this chapter a certificate of qualification stating the standing of the applicant and recommending his admission to the bar. The members of the board shall elect from their number a secretary and a chairman who may, but need not, be the same person, and shall make such rules and regulations relative to the performance of the duties of the board and to the examinations which the board conducts as to them may seem proper. Three members of said board shall constitute a quorum for the transaction of business.

The secretary of the board shall be the treasurer thereof and shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law.

The members of the board and the additional members of the board shall each receive as compensation for their services \$10 a day for the time actually spent and their necessary expenses incurred in the discharge of their duties, to be certified by the secretary of the board.

§ 802. Attorneys from other states; fee

Practicing attorneys whose domiciles are in other states and territories or from foreign countries may be admitted on motion to try cases in any of the courts of this State by such courts, but shall not be admitted to the general practice of law in this State without complying with section 803. Where any applicant, who has been a member of the bar of another state or the District of Columbia in good standing and in active practice for at least 3 years shall furnish the Supreme Judicial Court a certificate that he has established his domicile in the State of Maine and a certificate of admission to practice in the court of last resort of such state or a certificate of admission to any district court of the United States, together with the recommendation of one of the judges of the court of last resort of such state or of the District of Columbia, and a certificate of good moral character and of fitness to practice law from the board, said Supreme Judicial Court may in its discretion, if satisfied as to his qualifications, admit such person to practice on motion made by some member of the bar of said court, which motion shall include a declaration that to the best of the knowledge and belief of the member of the bar making such motion, the applicant has established his domicile in the State of Maine.

Any such applicant, when making application for such certificate of good moral character and of fitness to practice law, shall pay to the board a fee established by the board and approved by the Supreme Judicial Court, all or any part of which may be used by said board to defray the expense of investigation of such applicant.

§ 803. Qualifications

Every other person who shall be of full age, a citizen of the United States, of a good moral character and who shall have established his domicile in the State of Maine may be admitted to practice as an attorney and counselor at law and solicitor and counselor in chancery in all the courts of record of this State on motion made in open court, but the applicant shall first produce the certificate provided for in this chapter from the board, that he possesses sufficient learning in the law and moral character and ability to enable him to properly practice as an attorney and counselor at law and solicitor and counselor in chancery in the courts of this State, which certificate shall have been issued not more than one year prior to the date of the making of the motion, and he shall file with the court an affidavit that he has established his domicile within the State of Maine. No person shall be entitled to practice as an attorney and counselor at law and solicitor and counselor in chancery in this State until he shall be licensed to do so by said courts. No person shall be denied admission or license to practice as an attorney at law on account of sex.

Sec. 2. R. S., T. 4, § 804, amended. The 2nd paragraph of section 804 of Title 4 of the Revised Statutes, as amended by section 1 of chapter 370 of the public laws of 1967, is repealed and the following enacted in place thereof:

In addition to the foregoing requirements, each applicant shall produce to the said board satisfactory evidence that he has graduated from a law school approved by said board, provided that any person otherwise qualified may qualify to take the bar examinations upon proof that he has studied law in an office of some attorney in the State of Maine for 3 years prior to September 1, 1963, or that he has studied law for a continuous period of at least 6 months in such law office prior to September 1, 1963, and in an approved law school for a combined period of 3 years or he has successfully completed $\frac{2}{3}$ of the requirements for graduation from a law school approved by said board, and thereafter has pursued the study of law in the office of some attorney within the State of Maine for at least one year. When an applicant shall have satisfied said board that all the foregoing requirements have been fulfilled, said applicant shall pay a fee fixed by said board and approved by the Supreme Judicial Court and shall then be required to submit to a written examination which was prepared by said board or adopted by said board and an oral examination by said board, if deemed necessary. Any applicant who receives the passing grade established by the board, or better, as an average of all the examinations given and who has satisfied all of the requirements and qualifications set forth in this chapter shall be entitled to the certificate of qualification mentioned in section 801.

Sec. 3. R. S., T. 4, § 805, amended. The first paragraph of section 805 of Title 4 of the Revised Statutes is repealed and the following enacted in place thereof:

The secretary of the board shall keep a record of each application, the name of the applicant and his qualifications and general standing as ascertained by such examination, and the secretary of the board shall furnish each applicant

with a card showing the proficiency he has attained in each branch or subject upon which he has been examined whether a certificate of qualifications is issued or not. Any applicant failing to pass the first examination which he takes may apply to take the next examination given by the board by showing to the board that he has diligently pursued the study of law during the intervening time and shall pay the same fee for the reexamination as is at that time payable by an original applicant.

Sec. 4. R. S., T. 4, § 805, amended. The first sentence of the 2nd paragraph of section 805 of title 4 of the Revised Statutes is repealed and the following enacted in place thereof:

Any applicant who fails in 2 examinations shall not be allowed to take any examination given within 10 months after the examination which he last previously failed. He may apply to take a subsequent examination given by the board by showing to the board that he has diligently pursued the study of law during the intervening time and shall pay the same fee for each examination as is at that time payable by an original applicant.

STATEMENT OF FACT

The purpose of the proposed bill is to amend and clarify the Revised Statutes, Title 4, chapter 17, relating to examination for, and admission to practice law and particularly to provide for 2 additional bar examiners to be available as needed, but not otherwise, to substitute domicile for residence as a requirement for admission and to permit use of standard testing procedures under certain circumstances and otherwise to provide greater flexibility in testing procedures.