

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1769

H. P. 1353

House of Representatives, May 21, 1971

Reported by a Majority of the Committee on Judiciary and printed under
Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to Division of Real and Personal Property by the Court
under a Decree of Divorce.

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

Sec. 1. R. S., T. 19, § 721, amended. The first paragraph of section 721 of Title 19 of the Revised Statutes is repealed.

Sec. 2. R. S., T. 19, § 722-A, additional. Title 19 of the Revised Statutes is amended by adding a new section 722-A to read as follows:

§ 722-A. Disposition of property

1. Disposition. In a proceeding for divorce or for legal separation, or a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court may set apart to each spouse his property and may divide the marital property in such proportions as the court deems just after considering all relevant factors including:

A. The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as homemaker;

B. The value of the property set apart to each spouse; and

C. The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.

2. Definition. For purposes of this section only, "marital property"

means all property acquired by either spouse subsequent to the marriage except:

- A. Property acquired by gift, bequest, devise or descent;
- B. Property acquired in exchange for property acquired prior to the marriage or in exchange for property acquired by gift, bequest, devise or descent;
- C. Property acquired by a spouse after a decree of legal separation;
- D. Property excluded by valid agreement of the parties; and
- E. The increase in value of property acquired prior to the marriage.

3. Acquired subsequent to marriage. All property acquired by either spouse subsequent to the marriage and prior to a decree of legal separation is presumed to be marital property regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection 2.

Sec. 3. R. S., T. 19, § 722-B, additional. Title 19 of the Revised Statutes is amended by adding a new section 722-B to read as follows:

§ 722-B. Order to determine possession

The court may, by order, determine the possession of owned or rented real and personal property pending the final divorce decree.

Sec. 4. R. S., T. 19, § 723, repealed. Section 723 of Title 19 of the Revised Statutes is repealed.

Sec. 5. R. S., T. 19, § 725, amended. The first paragraph of section 725 of Title 19 of the Revised Statutes is amended to read as follows:

No rights acquired under sections 721 and ~~723~~ 722 by a ~~plaintiff party~~ party in the real estate of the ~~defendant a party~~ party are effectual against any person except ~~the defendant a party~~ a party, his heirs and devisees and persons having actual notice of such divorce unless an abstract of the decree of divorce, setting forth the names and residence of the parties, the date of the decree and the court where granted, is filed in the registry of deeds for the county or registry district where the real estate is situated.

Sec. 6. Effective date. This Act shall become effective January 1, 1972.