

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 409

S. P. 123

In Senate, January 29, 1975

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Clifford of Androscoggin.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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**AN ACT** to Revise the Statutes Concerning the Board of Bar Examiners.

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

Sec. 1. 4 MRSA, § 801, as repealed and replaced by PL 1971, c. 286, § 1, is repealed and the following enacted in place thereof:

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

To assist the Supreme Judicial Court, a 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 7 competent lawyers of the State and shall consist, as of the effective date of this Act, of the 7 lawyers who now serve as the members and additional members of the board, who shall serve for the remainder of the terms for which they have been appointed. As the terms of the present and future members expire, one or more members of the 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. 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. 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. Four members of the 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 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, or in the case of the secretary, to be certified by another member of the board.

Sec. 2. 4 MRSA, § 803, as last amended by PL 1973, c. 550, § 2, is further amended to read:

### § 803. Qualifications

Every 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 for 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, provided that said one-year period may be enlarged by any Justice of the Supreme Judicial Court on motion for good cause shown during said one-year period, 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 the Supreme Judicial Court. No person shall be denied admission or license to practice as an attorney at law on account of sex the opportunity to qualify for admission, or admission, on account of race, creed, color, national origin or sex.

Sec. 3. 4 MRSA, § 804, 2nd ¶, as last amended by PL 1973, c. 622, § 6, is repealed and the following enacted in place thereof:

In addition to the foregoing requirements, each applicant shall produce to the board satisfactory evidence that he has graduated from a law school approved by the board; or that he has successfully completed  $\frac{2}{3}$  of the requirements for graduation from a law school approved by the 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; or that he is an attorney who has been admitted by examination to practice in another jurisdiction in the United States and who has been in the active practice of law in that jurisdiction, or any other jurisdiction in the United States to which he was appropriately admitted, for a period of at least 3 years. When an applicant shall have satisfied

the board that the foregoing requirements have been fulfilled and has paid a fee fixed by the board and approved by the Supreme Judicial Court, he shall be eligible to take such written examination prepared or adopted by the board and such oral examination as the board deems appropriate to determine whether or not such applicant has the qualifications required by chapter 17 for admission to the bar. Upon such examination being completed, the board shall issue to each applicant who received the passing grade established by the board, or better, and who has satisfied the requirements and qualifications set forth in chapter 17, a certificate of qualification recommending his admission to the bar.

Sec. 4. 4 MRSA, § 805, as amended by PL 1971, c. 286, §§ 3 and 4, is repealed and the following enacted in place thereof:

§ 805. Reexamination

Any applicant failing to pass an examination shall be duly notified by the board and may apply to take another examination given by the board by reapplying in accordance with the rules and regulations established by the board and by payment of the same fee for the reexamination as is at that time payable by an original applicant.

Sec. 5. 4 MRSA, § 806, 1st paragraph, is amended to read:

Upon admission to the bar, every applicant shall, in open court, take and subscribe an oath to support the Constitution of the United States and the Constitution of this State, and take the following oath, or, in the case of an applicant conscientiously scrupulous of taking an oath, such applicant shall make appropriate affirmations to the same effect:

#### STATEMENT OF FACT

This bill changes the composition of the Board of Bar Examiners from 5 members and 2 additional members to 7 members of equal status. It eliminates the present statutory provision requiring any applicant who has failed 2 examinations to wait 11 months before he can again take an examination. It repeals certain historic educational standards which no longer have any pertinence. It makes experienced attorneys from other jurisdictions eligible to take the bar examination. It makes certain minor changes in the board examination procedures and the court admission procedures.