

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1129

H. P. 915

House of Representatives, March 19, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. Carey of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Concerning Attorneys' Fees and Costs to Wives and Husbands under the Divorce Statute.

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

Sec. 1. 19 MRSA § 693 is repealed and the following enacted in place thereof:

§ 693. Pending divorce wife's expenses

Pending a divorce action, the court may, on a motion, order the husband to pay to the wife, or to her attorney for the wife, reasonable provision for her separate support; enter such decree for the care, custody and support of the minor children as the court deems proper; and in all cases enforce obedience by appropriate processes, on which costs and counsel fees shall be taxed as in other actions.

Sec. 2. 19 MRSA § 721, as last amended by PL 1971, c. 399, § 1, is amended to read:

§ 721. Alimony for wife

The court may decree to her reasonable alimony out of his estate, having regard to his ability ~~and sufficient money for her defense or prosecution of hearings affecting alimony~~; and, to effect the ~~purposes~~ purpose aforesaid, may order so much of his real estate, or the rents and profits thereof, as is necessary, to be assigned and set out to her for life; or, instead of alimony, may decree a specific sum to be paid by him to her or payable in such manner and at such times as the court may direct; and the court may at any time alter, amend or suspend a decree for alimony or specific sum when it appears that justice requires; and use all necessary legal processes to carry its decrees into effect.

Sec. 3. 19 MRSA § 722, as last amended by PL 1973, c. 434, is further amended to read:

§ 722. Payment of alimony; attorney's fees; support of minor children; execution

~~Pending a petition to enforce a decree of alimony, or a decree for payment of money instead thereof, or for the support of minor children, or a decree for support pending the divorce action or for payment of counsel fees, or for the alteration of an existing decree for the custody or support of minor children, the court may order the husband or father to pay to the wife or mother, or to counsel for the wife or mother, sufficient money for the prosecution or defense thereof, upon default of which order execution may issue as in actions of tort. Execution for attorney's fees shall not issue until the action for divorce has been heard. Petition for such execution may be signed by the person seeking same or his attorney of record in such divorce action. At the time of making a final decree in any divorce action, the court may order that execution and such reasonable attorney's fee as the court shall order shall issue against any party to the action charged with the payment of support of minor children or payments of alimony or a specific sum in lieu thereof, upon default of any payment, the court shall enforce said payment by criminal contempt and order that the clerk of said court shall issue execution in sum due. When the husband or father is committed to jail, having been found in criminal contempt of any payment due upon decree of alimony, or for payment of money instead thereof, or for the support of his minor children, or for support pending the divorce action, or for payment of counsel fees the county having jurisdiction of the process shall bear the expense of his support and commitment. The court, upon finding a husband, ex-husband or father in contempt of its order, shall impose the following sentences: For the first offense, up to 10-day commitment to the county jail; for the 2nd offense, up to 30-day commitment to the county jail and for any subsequent offense, up to 90-day commitment to the county jail. Failure to pay any payment ordered for the support of minor children or payments of alimony or reasonable attorney's fees by the husband, ex-husband or father shall be deemed a criminal contempt if said husband, ex-husband or father had the ability to pay said payment at the time it was due. He may petition the court issuing such execution for relief, whereupon a judge of such court, after due notice to the wife or mother, and hearing thereon, may order his discharge from imprisonment on such terms and conditions as justice may require. Counsel fees awarded in the nature of support to the wife may be made payable forthwith, or in weekly or monthly installments all as the judge may see fit in the premises~~

STATEMENT OF FACT

The purpose of this amendment is to equalize the rights of men and women pursuant to recent federal amendments and state legislation regarding the equal rights of all individuals.